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Theory and Practice

OF

INTERNATIONAL COMMERCE

BY

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FOREWORD.

"Theory and Practice of International Commerce" is intended as a scientific outline of the merchandizing principles in export and import. In its theoretical portion it aims to supply the teachers and the students in American colleges with a logically built-up course of instruction, and the business world at large with an exposition of those economic principles which are responsible for the development of modern methods in exporting and importing for the evolution of the present-day sales machinery in international commerce, and for the establishment of that vast body of unwritten commercial law known as "commercial usage."

In Part II ("Problems of Modern American Export Practice") the author does not attempt to deal with elementary lessons and hints on the subject of export routine, qualifications of salesmen, packing methods, etc. It may be assumed that all practical exporters and importers are familiar with such A.B.C. matters. An attempt to cover the entire range of these topics in one volume is doomed to superficiality in the very elements in which their discussions would be serviceable: their detailed treatment, with illustrations, is possible only in intense specialized study units. The present volume adopts the plan of a detailed analysis of a few selected practical problems in which a changed outlook, due to the developments of recent years, calls for a thorough presentation. These problems include foreign credits and the evolution of modern banking facilities; commercial laws and regulations affecting incorporations abroad; the value and the correct use of sources of information at home and abroad, and the proper sphere and development of official and associational trade promotion; finally the rational methods of modern publicity. All the other practical matters bearing on international commerce, by the way, are incidentally referred to throughout the volume insofar they affect the rights and obligations of the vendor and the buyer as parties to international sales contracts.

To build up a scientific presentation of the principles of international commerce requires the sifting of a tremendous mass of fact material, some of which is notoriously unamenable to grouping and analyzation. In the mass of available fact material in international commerce stands out a central technical process known as the "sale." This forms the center of our consideration, leading us to a systematic study of conditions antecedent and subsequent to the conclusion of the sales contract, including the historic development of the present day commercial organization in the country of export and its counterpart in the country of import; the rights and obligations arising from the conclusion of the sales contract; the technique of pricing, etc.

The activities of exporters and of importers at home and overseas are closely analyzed; the conflicting interests of the exporters and of the importers, of producers and of distributors, are carefully reviewed by markets. An attempt is made to classify importers and exporters and to make clear distinctions between types. A careful consideration is given to commercial usage in the matters of quality, of quantity, of style and make-up, to the problems of time and place of contract performance, of pricing, discounting, terms of payment, form of contracts, etc.

In considering the principles underlying export trading, the present volume follows the shipment of manufactured products from the United States and the industrial countries of Europe to those essentially importing countries constituting what is known as the "export field." The analysis of the commercial organization in the exporting country leads us to a review of the connections between the exporting and the importing country, as initiated either by the vendor or by the buyer, and concludes with the study of the distributing organization in the importing country.

In considering the import trade, it takes up the shipment of oversea products from the non-industrial countries such as Latin-America, the Far East, African colonies, etc. to United States and the industrial countries of Europe, pursuing the same course as outlined for the export trade, but with the objectives reversed.

ARCHIBALD J. WOLFE.

New York, July 1919.

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PART I.

THE THEORY OF INTERNATIONAL COMMERCE.

CHAPTER I.

International Commerce as an Economic Science.

1. *The Meaning of Commerce.*

The value of an article of human consumption is determined by two factors: its capacity of satisfying a human need, and the extent of the need which it satisfies.

The average extent of the need which a class of articles serves to satisfy determines a general valuation of that class of articles, and hence we have a differentiation in values by classes or kinds of articles.

But the valuation of a specific article in a concrete instance is determined by the extent of need for such articles which is no longer covered by articles of the same class on hand and to satisfy which the article is desired.

This is the so-called *"final degree of utility."*

The final degree of utility is naturally subject to variations in accordance with the varying needs of individuals, as well as with the varying average needs of the population in different localities and at different seasons. As a consequence of this phenomenon the same articles vary in their value to different people, in different places and at different times.

This variation of the value of articles, particularly if measured by the value standard of other articles, is the basis of commerce. Articles of human consumption forming the object of commerce are generally termed *goods, merchandise* and *commodities.*

Commerce, or trade, in its wider aspect, is an exchange of goods, or of right to goods, for other objects which are more desired.

The division of labor as the effect of human progress in production, and the principle of individual property rights render commerce as the sole legitimate means by which an individual

can procure goods other than those produced by himself or received as a remuneration for services performed.

We arrive thus at two important factors in commerce, the *producer,* who either by his labor gains from natural sources, or by his skill fashions from natural materials those goods which are useful in satisfying human needs, and the *consumer,* whose need is satisfied, and who in exchange offers to the producer other goods, or right to other goods, which the producer desires more than his own goods or products.

The development of the economic activities of mankind resulted in an extension of these exchange operations until producers and consumers became separated by great distances; added to this came the necessity of providing possibilities for effecting these exchanges at specified times in the future, and since frequently neither producers nor consumers could satisfactorily attend to these transactions, the introduction of an important third economic factor followed as a necessity: this factor is the *trader,* or *merchant.* And this brings us to the consideration of commerce in its stricter sense.

Commerce, in the stricter sense of the term, is an economic activity consisting of the purchase and of the sale of goods (without undertaking any changes on same) or of existing rights to goods, through which the final exchange of goods between producer and consumer is effected, but which has for its immediate aim the transfer of exchange objects from the possession of those who value them less highly in relation to the exchange medium into the possession of those who value them more highly in relation to the exchange medium, the purpose of this activity being to retain a portion of this value difference, called profit, as remuneration.

The change of ownership effected by commerce creates values by adding to the value of goods exchanged. The trader, or merchant, is reimbursed for his activity by the difference between his expenses and his income, which forms a portion of the increased value of the goods.

The activity of the trader and merchant benefits both groups of economic factors between which he intervenes: his purchases at the point of production tend to increase the producer's price; his sales offers at the point of sale tend to lower the price paid

by the consumer; moreover his activity tends to diminish the fluctuation in the valuation of goods at different times and in different places.

The trader or merchant is not a producer; in accordance with the strict definition of commerce, he may not effect material changes in the composition of the gods. He may effect changes in the packing or in the assortment; but if he effects improvements materially altering the character of the goods, he combines the capacity of producer with his capacity of merchant or trader.

When we speak of a country's international commerce, however, we depart from this strict and narrow definition of commerce and include not only goods bought and sold between merchants, or traders on the one hand, and traders and consumers on the other hand, but also transactions between producers on the one hand and consumers on the other, and the modern tendency has been towards a combination of the functions of the merchant with the functions of the producer.

2. *The Classification of Commerce.*

Commerce may be divided into three classes, in accordance with the objects bought and sold: goods, merchandise and commodities; money, bullion and financial instruments; and finally real estate and immovable property. The last-named variety of commerce enters but distantly into the domain of international commerce; the commerce in money, bullion and credit instruments, while in some of its aspects most intimately connected with international commerce, is a specific subject, which must be treated under the caption of Banks and Banking. *Commerce, as generally understood, deals with goods, merchandise and commodities.*

Commerce is also divided, in accordance with the character and the volume of transactions, into *wholesale* and *retail* commerce. Wholesale commerce may be carried on between two merchants, or between a merchant and a producer, or between two producers, or between a producer and a large consumer; retail commerce is carried on principally between a merchant

and a consumer, less frequently between a producer and a consumer.

Commerce may be carried on in *permanent* establishments or be *itinerant* in character. The examples of the latter are the peddler; the caravan trade in certain undeveloped localities; speculative despatches of miscellaneous cargoes on chartered ships to new and undeveloped markets, such as formed the starting point of many a flourishing export enterprise; fairs and expositions. The permanent establishment may be a store, either single or a unit in a chain of stores; a wholesale establishment with or without a warehouse; an office carrying no stock of goods, though perhaps a collection of samples, and only incidentally attending to the actual shipment of goods.

Commerce again may be divided into *local* and *out-of-town* commerce; if the entire transaction originates and is concluded in the community where the trader is domiciled it is local commerce; many concerns doing an out-of-town and even an international business maintain a "city department" to attend to local commerce. Local commerce may be done with a buyer from another community if he calls personally on the trader and accepts his purchase on the spot.

Finally commerce is divided into *domestic* commerce and *international* or *foreign* commerce.

Domestic commerce is based on the purchase and sale of goods, merchandise and commodities between parties located in one country, though the goods may be eventually shipped by the purchaser to another country. International or foreign commerce is carried on between buyers and sellers located in two different countries.

International commerce is divided into *export* and *import* commerce.

The export of goods is an international transaction involving the shipment of goods from the home country into another; the import of goods is the reverse of this transaction. Both the export and the import commerce are based on these transactions, without necessarily fully coinciding with them. A concern sending a stock of goods to its own branch abroad exports these goods, but the transaction is not strictly export trade.

And a similar condition may prevail in the import of goods.

In addition to the export and the import commerce there exists also an *intermediate* commerce, where a concern located in one country may effect an international business transaction by sending goods from a second country to a third, in which case the goods need not necessarily pass en route through the country where the seller is domiciled.

A still further variety of international commerce is the *transit* commerce. Here a shipment passes from one country through another into a third country. Goods shipped from Canada to Mexico by way of United States are shipped in transit. Here the commerce of the United States is only concerned through common carriers, freight agents, etc. Transit commerce consists of an import and an export transaction, but only constructively so, unless the goods are accepted in the transit country and shipped out again, in which case the transaction terminates with *re-export.*

From this point of view export trade may be *direct* or *indirect.* In direct export trade the shipper sends his goods direct to the country of consumption, or at least to the port of entry nearest to it; export commerce is termed indirect, if the goods are shipped to one country and thence re-exported to the country of ultimate destination. This was formerly the practice of many American shippers. American goods were shipped, for instance, to Hamburg, and thence re-exported to Russia, or they were shipped to Liverpool, and thence re-exported to West Africa.

The same condition is duplicated in the import trade. Goods shipped to the purchasing country direct from the country of origin are an example of direct import; goods shipped to another country and thence to the purchasing country illustrate indirect import. Sumatra tobacco shipped to United States from Holland is an example of indirect import.

Both the export and the import commerce are termed *direct* or *indirect* also in a sense other than described above. A third party may intervene between the actual seller and the actual buyer, generally in the shape of a commission agent, and export commerce carried on through his mediation is termed indirect, as distinct from the direct export commerce without such inter-

vention. Similarly a producer selling his products to the buyer in a foreign country without the intervention of a middleman is doing a direct export business, but when he sells through an exporter or through an agent, who is not his own or the buyer's immediate representative, he is doing an indirect export business. The same condition prevails in the import trade.

The functions of the commission agents and other middlemen in the export and the import commerce will be described in detail under the head of "Organization."

Commerce is also divided into *oversea* commerce, *coastwise* commerce and *continental* or *overland* commerce. Goods shipped from New York to Chile by ocean-going vessels illustrate oversea commerce; a shipment along the coast from Portland, Maine, into Canada is coastwise commerce; a shipment overland from San Antonio to Mexico is continental commerce.

In ordinary commerce goods are sold for a money consideration. Money in some of its varieties—cash, cashable drafts, or credit, forms the purchase price of the goods. The vendor parts with the goods either against current funds or "cash at some future time." Two concurrent transactions may render an actual transfer of funds superfluous, and yet both may be based on money considerations. A New Yorker shipper may be sending hardware to the same house in Rio de Janeiro from which he receives coffee shipments. Contrasting with such transactions is the *barter* commerce which still prevails in certain undeveloped markets. But even here, instead of direct barter of foreign products against native produce, a species of commodity particularly esteemed by natives may become a favorite exchange medium and assume the character of money.

Finally commerce may be considered from the point of view of *activity* and *passivity*. A country is doing an active export business if its merchants look up foreign markets, develop trade in foreign localities through traveling salesmen, correspondence, publicity, and employ home capital in their foreign trade transactions. Selling its products to foreigners who come from abroad to buy, or through the mediation of merchants abroad, a country is said to be doing a passive export business. The distinction, however, does not admit of sharp demarcation.

3. *International Commerce in its Relation to Economics.*

In speaking of international commerce, it is the commerce in goods, merchandise and commodities that is generally understood. All these three generic terms, often used interchangeably, though not strictly coinciding, are here taken to comprise the entire range of products which form the materials of commerce. The allied and largely intertwining fields of banking, transportation, insurance and policies, can be treated only passingly in an outline of the principles of international commerce from the merchandizing point of view. These auxiliary subjects can receive full consideration only in special intense study units. Incorporated in a book dealing with the theory of international commerce, their exhaustive treatment would defeat the object of furnishing a clear outline of principles underlying the conclusion of an international sales contract, with its antecedents and consequences, and instead of a unified science would confront the student with an encyclopedic complex of sciences.

In a scientific presentation of international commerce from the point of view of merchandizing we may treat commerce as a special subject rather than as a branch of national economics. We need not consider commerce as a national economic function, but as the activity of private economic units, by bringing out scientifically the conditions under which the various processes of international commerce are carried on, and their effects both upon commerce itself and upon those engaged in commerce.

The center of the consideration must therefore be the conclusion of the sales contract as the result of which the exchange of goods takes place. We may consider the sales contract as a technical process the details of which must be scientifically examined. Reaching backward to its antecedents we must examine into the conditions which have brought it about or affected it, though we may not go in that direction beyond the point where commercial activity has commenced, lest delving too deeply we stray beyond our subject into the domain of national economics.

In the other direction, examining into the effects of the sales contracts, we must investigate the conditions under which the actual transfer of goods takes place, we must trace the development arising therefrom as affecting the individual trades-

man, and thus the entire business world of the nation, and finally the world trade.

At the same time a scientific presentation of the merchandizing principles of international commerce must on the whole follow the methods of economic sciences. It must gather a maximum of fact material. Here we are confronted with unusual difficulties in the way of scientific treatment, for we principally depend for fact material upon a very precarious source of information, namely upon the traders themselves. The business world is notoriously averse to disclosing business secrets; the American business man has outgrown this tendency to a greater extent than the traders of other countries, but the tendency still clings to the foreign departments even of many American enterprises. "Clinical" material is very difficult to obtain, and where it is offered more or less freely, it is frequently unintentionally colored by personal prejudices, interests, exceptional or accidental experiences, and therefore such material must be carefully weighed, sifted and examined.

By analytical grouping we can then arrive at the typical in the facts and the processes, and determining their substance, their causes and effects, pursue their development possibilities.

The consideration of International Commerce as a science may be divided under two heads:

I. *Theory and general merchandizing principles,* treating the fact material as suggested above, principally by the inductive process, and presenting the knowledge thus gained of the substance of these facts, their causal connection and their general development tendencies in a systematized and orderly manner.

This may be subdivided under the following captions:

a) The basic conditions of International Commerce.

b) The organization of International Commerce.

c) The conclusion of contracts in International Commerce.

d) The routine of import and export.

e) The technique of price calculation.

II. *The applied science of International Commerce.* This treats of facts and conditions existing in specific localities and

referring to specific subjects. It can be grouped under three heads:

a) *Commodities in International Commerce.* This takes up all classes of merchandise and furnishes a comprehensive survey of international commerce in specified commodities throughout the world, as for instance cotton, wheat, sugar, coffee, iron and steel. This is the favorite method in German commercial education and forms the basis of Sonndorfer's works "Internationale Handelskunde" and "Technik des Welthandels" and many other treatises.

b) *Commercial Geography,* treating international commerce concretely by markets.

c) *National export and import practice,* offering the student an insight into the country's advance in the technique of export and import.

The present work attempts to furnish in PART I an outline of the theory and the general principles of international commerce, as suggested under caption I above; it does not undertake the stupendous task of an exhaustive treatment of the applied science of international commerce either by commodities or countries (Caption II, a and b), particularly as the re-grouping of state and economic entities suggests a dignified presentation of these subjects by competent authors at some future time, not too remote, we may hope.

These subjects are treated with particular reference to post-war conditions.

While throughout that portion of this work which deals with the theory of international commerce it has been the author's aim to present, wherever possible, practical applications of the principles developed, it is PART II which deals specially with modern practice in international commerce.

A work dealing with the practice of export and import must necessarily be encyclopedic in character. It is a very difficult task to present in one volume every phase of international commercial practice without the risk of superficiality. If such a work can adequately prepare the student for a thorough understanding of the intensive study units and special treatises dealing with such branches as document technique, insurance, transportation, it will have attained its aim.

Here excellent books have been published, among them "Practical Exporting" by Olney B. Hough, the dean of American writers on export topics, and Ernst B. Filsinger's "Exporting to Latin America," both of which are considered as classics in this field, and only lately Norbert Savay attempted in a masterly work entitled "Principles of Foreign Trade" to present in one volume information covering the entire domain of foreign trading. Meanwhile the literature dealing with specific phases of international commerce is daily growing in volume and importance.

In view of the excellent manner in which the elementary side of practical exporting has been covered, we will not attempt in the second part of this work to present a systematic exposition of practical exporting, particularly as almost all of the practical methods of both the export and the import trade are applications to local conditions of the principles thoroughly considered in the first part of this work.

On the other hand history has made rapid strides in these latter days. The businessman is confronted with changing conditions. These demand his study and consideration. Questions of clerical routine, faulty packing, inadequate postage, important as they are, must be left to books dealing with elementary instruction, and yield to the consideration of weightier problems.

Some subjects allied to international commerce, as Foreign Exchange, Ocean and Inland Transportation, Marine Insurance, are adequately covered in standard works, a list of which may be found in the bibliographic table at the end of this work.

We have, therefore, selected for consideration in that portion of the work which is assigned to strictly practical phases of international commerce the following topics: The Credit Problem of To-Day; Modern Developments in American Banking; International Law in Relation to Commerce; Analysis of the Results of Trade Promotion; Modern Publicity Methods.

CHAPTER II.

Basic Factors in the Development of International Commerce.

1. *International Merchants as a Factor in the Development of International Commerce.*

Commerce, as a private economic activity, is naturally affected, both with regard to its volume and to its characteristics, by the nature of its agencies, that is of the individual business houses and of their management. The development of international commerce from this point of view is therefore greatly influenced by that section of the merchant class which participates in it immediately—the international merchant class, we might say, as well as by that section of the business world which enters into relations with the international merchant class either as customers or as furnishers of supplies.

The group of international merchants which is to be considered in the commercial relations of one country with another may be located in the two countries concerned, or as in the case of intermediate commerce, in a third country. The group of international merchants located in a country may be composed of citizens of that country or of foreigners.

The international merchant located in the exporting country is generally a national of the exporting country; the international merchant located abroad, in the importing country, may also be a national of the exporting country, but is generally a native of the importing country. German and British merchants have frequently settled abroad or established branches abroad, and in certain importing markets, as we shall see, an important distinction exists between native merchants and foreigners engaged in the importing business. Finally the international merchant located in the exporting country may be a citizen of a third country.

The extent to which the international merchants located in

the exporting country, as well as those located abroad, are nationals of the exporting country forms a criterion of the exporting activity of that country. Unquestionably Germany in the period of her greatest commercial expansion before the world war, and Great Britain, with her marvelous network of branches in foreign countries and in her dominions, were far superior to United States from the point of view of export activity, a condition which has undergone a considerable change not only with the curtailment of Germany's physical capacity of maintaining her predominance in the export markets, but even more so with the growing establishment of American branch offices and agencies abroad and with the unprecedented use by American exporters of the weapon of publicity abroad, which was almost an undeveloped auxiliary in the pioneer days of modern international commerce.

Another criterion of export activity is also the extent to which the international merchant of a country seeks out foreign trade of his own initiative or is solicited by foreign inquirers, by foreign buyers, either through correspondence or through personal visits.

Activity or passivity in international commerce greatly influence the development of export and import trade in general, and of trade in specific commodities in particular.

In countries passively interested in international commerce, foreign merchants, European or American, are obliged to do pioneer work, sometimes undertaking speculative selling trips to those countries (generally commercially undeveloped or backward countries), establishing branches there, or endeavoring to interest the native business people in international transactions through written solicitation or through the sending of traveling representatives.

Under these circumstances these international merchants endeavor in the first instance to introduce in these passive markets the products of their own nation, and to export from those markets to their home land such native products—generally foodstuffs and industrial raw products—as their home land requires.

Should the passive market in addition to these articles produce industrial commodities, in other words manufactured goods, the foreign international merchant will only then interest

himself therein, if the handling of these goods yields him a greater margin of profit than the handling of kindred goods of his own home production. As a rule, if a commercially backward country produces manufactured goods, its capacity to compete in the world trade is very limited, and the foreign international merchant would find it very difficult to market them in his own home land, for which reason the industry of a country which is passive from the point of view of international commerce can only in exceptional circumstances depend upon foreign merchants to market its industrial products.

But it can look to the merchants of its own country who deal with foreign merchants; to its own banks; to the sagacity of its own government which should strive to assist the infant export industry in making those initial efforts and sacrifices which are required to gain a competing footing in the world's markets.

The foreign merchant, however, working along the lines of least resistance, will make it his business to sell in such markets the products of his own nation; to buy in those markets the foodstuffs and raw materials needed by his own nation; and will interest himself in the promotion of the sale of native manufactured products only in exceptional cases.

Therefore the development of the export trade in manufactured products requires a vigorous export activity from the home land; whereas the development of the import trade, and of the export trade in raw products, particularly such as are needed by manufacturing countries, can progress even through merchants of foreign allegiance, where the domestic business people maintain a passive attitude to international commerce.

Translated into practical application for the American business man, this truth teaches that the promotion of the export of American manufactured goods depends entirely upon the efforts and the activity of American exporters, and the growth of American exports of manufactured goods is co-incident with the abandonment of the old policy of entrusting their sale to foreign agents and connections, of waiting for chance inquiries, and of haphazard methods.

The export merchant, in order to be successful, requires the possession of certain qualifications.

In the first place he must be *enterprising.* The retail merchant in a small community knows his customers; he does not have to hunt them up. The export merchant must hunt and fish for customers. He must be enterprising enough to seek out foreign and distant markets for his goods. He must study the peculiarities, the likes and dislikes of these markets. He must be sufficiently interested and well-informed to acquaint himself intelligently with business conditions and with business houses abroad, to open relations with them; he must be courageous enough to travel abroad, to settle abroad if necessary, though residence abroad may involve hardships; he must be ambitious enough to familiarize himself with the necessarily involved technique and routine of foreign trade; he must be speculative enough to take up dealings with the other end of the world with the same equanimity with which a domestic merchant may transact business over the telephone; and occasionally he must be prepared to chance his luck with a prospectively lucrative enterprise though it be not lacking in elements of risk.

In the second place he must be *competent.* He requires a superior education, whether acquired in college or in the school of life. He must be capable of mastering the complicated technique of world trade, to have an insight into those manifold and frequently involved political, economic, legal and other conditions which affect the various phases of international commerce. He should know foreign languages. He must know the peculiarities of the people with whom he seeks to have commercial dealings. He must know the commercial usages of foreign markets, he must be conversant with market conditions abroad and with local demands. He must organize his staff correctly, and he must adapt it to the peculiarities of specific marketing conditions, both with regard to specific commodities and to specific localities. He must know the importance of accuracy, promptness and honesty in international dealings.

Accuracy in making offers, exactness in concluding deals, and positive knowledge that what he undertakes to do he can also carry out are essential to an export merchant. Orders must be executed with mathematical accuracy. Times of delivery must be strictly adhered to. The various officially required formalities must be duly observed. Accuracy and promptness are

particularly important in international trade, for goods must make long journeys before reaching their destination. The consequences of inaccuracy are frequently disastrous in international commerce. The chances of correcting errors and inaccuracies are very poor as compared with the domestic trade. And the retention of a customer in international commerce is absolutely dependent upon the most painstaking accuracy and promptness.

Anything that savors of sharp practice must be punctiliously avoided. The merchants of a whole nation may suffer through the painful impression produced by a semblance to sharp practice, sometimes the fault of an unintelligent employee. Confidence is the basis of success in international commerce. It requires good faith on the one hand and confidence on the other to carry on a satisfactory business transaction where the buyer and seller have never met one another, speak different languages, are separated by many thousands of miles and part sometimes for months one from his money, the other from his goods.

Next in importance is the wisdom in *pricing*. Whether introducing an article without competition, or one in which competition may be sooner or later encountered, the merchant jealous of his success will make his prices reasonable, taking into consideration cost, expense and reasonable profit, as well as the prevailing market conditions.

A further characteristic of a competent international merchant is *prudence* in engagements, neither too excessive to kill his readiness to take a reasonable chance where circumstances warrant it, nor inadequate to involve him in risky speculations.

Lastly the export merchant must be thoroughly *efficient*. He must be adequately equipped from the point of view of finance. He must maintain a proper organization to take care of business in widely scattered foreign territories, or where he limits himself to trade with one particular foreign market still with a market located a certain distance from his base. And he must have a sufficient capital to pay cash for his purchases, to grant credit where necessary, and to take care of the incidental expenses of shipping. He must be financially in such shape as to command the confidence of the customer, who entrusts him with his money; of the producer, who entrusts him with his manufacturing facilities, outlay for labor and material, and with

his goods; of the banks whose co-operation becomes daily more important in international commerce.

The unusual conditions brought about by the world war have been responsible for the launching upon the troubled sea of international commerce of countless small firms in the export trade, and if any of these have survived the period of export restrictions, they will have a very difficult task ahead of them unless they had made enough money and gained a sufficient prestige during the war to insure their efficiency in the future. The first decade after the signing of peace will witness an era of gigantic combinations in the export field. International commerce is swiftly entering upon a stage when markets must be cultivated on a large scale. The adjustment of international trade conditions will be as far-reaching in its effects as the displacement of the stage coach by the locomotive. Producers and merchants both in the United States and in Great Britain realize this. In the United States the Webb bill has anticipated this condition. Banks and financial companies in both countries have made thorough-going preparations to cope with it, and the inefficient export merchant will find himself outstripped, outgeneraled and largely eliminated.

Whatever has been said of the export merchant, is equally true of the import merchant. Export and import are very often united in one firm, because the machinery for operating both is closely paralleled. And the foregoing remarks are also true of those producers who have installed their own export organizations. As far as their export department is concerned, they are export merchants. Manufacturers who are doing a direct export business must have that phase of their enterprise in charge of a competent manager whose qualifications, in addition to those mentioned above for export merchants, must comprise also a thorough technical knowledge of the line and the fullest familiarity with the modern methods of marketing it in foreign countries.

Next to proper organization and efficient management, the manufacturer taking up direct exporting must guard against certain tendencies which are likely to prove stumbling blocks.

The first of these tendencies against which the exporting manufacturer must guard is the failure to quote reasonable prices

for his products. The export merchant faces both foreign and domestic competition, and he is too greatly concerned in the promotion of his business, which is to export goods, to make the mistake of trying to build up his business on the basis of extravagant quotations.

But the manufacturer's principal business is in his home market. He takes up export perhaps in order to increase his production and to carry on his manufacturing on a big scale; or he may be anxious to secure an outlet valve for temporary overproduction. The manufacturer may not be fully conscious of the true function of export, or of the conditions prevailing in the world's markets, and may consider himself entitled to higher prices when condescending to sell abroad.

But in the foreign markets the buyers have been spoiled by a very keen competition, and though they may under protest pay unwarranted prices for articles in which there is either little competition or a temporary excess of demand over supply, this condition is not likely to last long. The manufacturer must realize that although the technique of export trade is slightly more involved than in the home trade, he has in the combined markets of the world a vaster field for his activity than at home, and the export business is even more secure than the home business, for it never is "slack" all over the world at a given time. For this reason exaggerated prices are unwarranted.

The second error is to regard foreign markets as inferior, suitable for the dumping of products unsaleable at home. This is a fatal error. Unless the manufacturer studies the demand and the tastes of foreign markets, he will never make a success of selling abroad, even though under certain conditions he may be able to dispose abroad of some material unsaleable at home. This need not discourage the manufacturer from educating customers and consumers in foreign markets to adopt and even to demand styles, shapes and methods to which they are unaccustomed. But this requires tact, diplomacy and skill, as well as initial expense. Nothing should be forced upon foreign buyers.

The third and the most common error on the part of manufacturers is to turn to the export market for their own convenience when there is a temporary cessation of home demand.

The foreign market is not always available at will. And it is just as difficult to create a steady circle of customers abroad as at home. Customers abroad must be wooed, and when won they must be catered to, and their needs must be provided for, or they will not be available when wanted, certainly not if they are left in the lurch after creating among their clientele a demand for a manufactured line, and the excuse that home demand forbids the manufacturer to take care of them is not likely to retain their good-will.

And where the manufacturer does not deal direct, but resorts to the mediation of export merchants, he must bear all the foregoing in mind as well. He must be accurate, prompt and efficient. In order that the export merchant may fulfil his duty to his customers, the manufacturer must support the export merchant or agent by quoting him the lowest possible prices, by supplying him with samples, and by making it worth his while to push his particular product as against the products of his competitors.

The development of a national export trade is furthered by associations, by the growth of auxiliaries and by public promotion.

The growth of export trade is greatly influenced by the extent to which manufacturers and export merchants proper participate in export activities; by the development of exporting centers; by association into public bodies such as in United States the National Foreign Trade Council, the Chamber of Commerce of United States of America, the National Association of Manufacturers, the American Manufacturers' Export Association; by auctions, markets and exchanges, such as the Cotton Exchange, Coffee Exchange, Produce Exchange in New York, or abroad the Lyons Sample Fair, the Leipsic Fair, etc.; by organizations which lately have become possible under the Webb bill. The effect and the proper sphere of activity for such associations will be considered in detail in the latter part of this work.

Auxiliary commercial institutions which are intimately connected with the development of export trade, though not directly engaged in merchandizing, are banks with foreign departments, branches abroad and connections in foreign countries, insurance companies specializing in ocean risks; freight forwarding com-

panies, shipping companies; credit information bureaus, and expert appraisers.

Banking facilities in connection both with export and import play a very important role. Their activities will be properly considered in PART II, but an exhaustive study of modern bank technique in its effect upon international commerce, particularly in the light of the great progress made in the United States under modern federal legislation deserves a special treatise to do justice to the subject.

At this point it may suffice to mention that banking facilities in export and import trade are furnished a) by branches, agencies and correspondents of foreign banks established in the export centers and b) by domestic banks having branches, agencies and correspondents abroad. While the service of the latter in its present extent is a recent development in the United States as far as the equipment of branches and agencies abroad is concerned, nonetheless American manufacturers and exporters can avail themselves to better advantage of their mediation, and the prospects of their increasing participation (through their foreign branches) in the financing of great foreign enterprises opens up a vista of greatly heightened utility and of vaster facilities for American manufacturers and exporters.

The development of domestic banks with international connections is a prime prerequisite of a great and successful export and import trade, as is also a wise and liberal legislation regulating the functions of the banks in international transactions.

Both in the insurance and in the freight forwarding end the service of domestic concerns with branches or correspondents of their own in foreign ports and trade centers is an essential auxiliary to export trade.

Credit information through well organized agencies with offices and correspondents abroad is another important factor in the smooth development of international commerce. In this particular also great progress has been made in the United States, and this phase will be discussed in detail in Chapter XV.

Last in the list of auxiliaries, are the sworn appraisers, experts and inspectors, whose impartial judgment is depended upon both by the seller and the buyer in determining the quantity and

the quality of various products and commodities in export and import shipments.

International commerce is finally furthered by public promotion. This means Governmental promotion in the first instance, consisting in the United States of services furnished by the State Department, through its Foreign Trade Adviser division, and the American consular corps which in recent years has greatly advanced in usefulness and efficiency; the Department of Commerce, with the magnificently equipped Bureau of Foreign and Domestic Commerce, its branches and sub-branches in various cities, its experts traveling as trade commissioners in foreign countries; the service of Commercial Attachés, who are attached to embassies under the direction of the Department of Commerce; secondly, promotion by public associations, some of which have been mentioned, furthering the general export interests of American commerce; organizations devoted to the promotion of the interests of specified industries; American chambers of commerce abroad; chambers of commerce in various American cities having foreign departments.

In addition to this passing and incomplete mention, the activities of these bodies are thoroughly reviewed in Chapter XIX.

2. *Competitiveness as a Factor in the Development of International Commerce.*

In order to make it possible to import a certain line of goods into a country, the premises are that either the production in the importing country cannot fully cover its demand for this particular class of goods, or that another country, which desires to export these goods, has such an advantage over it in the matter of cost of production that the addition of the cost of importation does not fully counterbalance it.

But in order to cause this same importing country to obtain these goods from one exporting country in preference to others, it is necessary that no other exporting country shall offer more favorable conditions for the covering of this demand, taking into consideration the cost of production and the cost of importation.

Efficiency in production is therefore the basis of ability to

compete in the international trade. Superior, or at least equal efficiency in production determines the ability of one country to compete with another in exporting a given article to a given market.

Efficiency in production may be *qualitative* or *quantitative.* qualitatively efficient is the production if the cost of production, with due regard to the quality of the goods, or in some cases to the appearance, to the matter of meeting the tastes or needs of the foreign buyer, plus the costs of importation, allows the article to be set down in the importing country under conditions which make it more desirable than a competing article furnished by another country.

Quantitatively the efficiency of production affects the competitiveness of an article by the ability of furnishing greater quantities, of offering prompter deliveries, or of filling orders of unusual size.

Without the competitiveness of the production the most energetic export merchants cannot achieve permanent results in promoting the export trade of their country.

It is the domain of political economy to analyze the factors which determine the competitiveness of the production in any country. We may cursorily mention a few of the most important of these factors, emphasizing those which are of commercial nature.

a) *Natural factors.* The quality of the soil, climatic conditions, mineral wealth and resources for exploiting it on a paying basis, a geographically intimate connection between raw and auxiliary products on the one hand and the natural sources of power on the other.

b) *Physical and mental factors.* Physical strength, intelligence, industry, accuracy, inventiveness, skilled labor.

c) *Social factors.* Improved living conditions of the laboring class. These lead to a demand for higher wages, and also to the increase in the efficiency of labor, to technical advances in production, to improvement in the quality of the goods, to the use of labor-saving machinery, to a higher standard of production, to inventiveness, patents, trade-marks, styles, etc., finally to an elevated standard of living all around and an increasing demand for goods to satisfy same.

d) *Economic factors.* The increase of wealth raises the buying ability of a people, which is the prerequisite of increased domestic sales. The ability to secure capital at a low rate of interest is another direct consequence of the increase of wealth, and in its turn leads to the creation of great industrial undertakings, to improved methods of transportation, to intensive exploitation of mines, oil wells, etc. The rate of interest is also lowered by the development of credit institutions and of industrial combinations. Finally the development of mass production, permitting a most thorough-going division of labor, standardization and specialization, and therefore the production of goods in immense quantities at lowest possible prices, in spite of high wages, and of splendid returns for capital invested, and of superior quality of the product.

e) *A great domestic market secured by a reasonably protective tariff.* Granting the tremendous economic value of export trade, an industry which depends upon export trade alone has no secure foundation. For a mere change in the tariff policy of the customer-country may kill overnight the most carefully built export trade with a given country. Only drawing its strength from a constant, growing, profitable exploitation of a vast domestic market can an industry build up a profitable export trade. On the other hand the domestic market must be suitably protected against the invasions of the products of countries where living conditions of labor, or the export policy of the state permit the dumping of products in the home market of competitors at a price which may ultimately outweigh superior quality and standardized production. And a protective tariff, it may be frankly admitted, permits the reasonable pricing of manufactured goods for home consumption, leaving the producer free to charge somewhat lower prices for exported goods, thus counterbalancing to some extent the cost of importation abroad, and increasing the competitiveness of exported products when they reach the foreign market; exported goods must be set down in the foreign market on a competitive basis: the difference in price between them and the lower priced competing goods must not be too great, even granting superior quality, lest the foreign buyer for reasons of economy regretfully decide to buy the cheaper, if in-

ferior article of the competition. In other words, the difference in price must not be out of proportion to the superiority of the article.

f) *Enterprise and energy of manufacturers.* International competitiveness depends to a great extent upon the degree of education in the exploiting of export markets possessed by manufacturers. Recent years have seen an almost miraculous advance on the part of American manufacturers from a state of semi-tolerance and an almost academic interest in foreign trade to that present state of the recognition of its importance which has drawn the foremost industrial leaders to work for the promotion of America's share in international commerce, and is leading countless young men throughout the country to a serious study of international commerce as a profession on par with medicine, law, engineering, etc.

g) *Adaptability.* Finally an important commercial factor in increasing the competitiveness of an article is the readiness of manufacturers to study foreign conditions at first hand and to pay attention to the wants and the requirements of foreign markets, with a view to adapting their products as far as possible to the needs of the markets for which they are destined.

3. *Traffic Conditions as a Factor in the Development of International Commerce.*

Traffic contditions as a factor in the development of International Commerce are affected by *natural premises, economic devices* and *artificial hindrances.*

The natural premises are to be found in those outward natural conditions which form the basis of traffic development: navigable rivers, the sea and the plain as the natural traffic routes; mountain ranges as natural traffic obstacles; the situation of producing territories in relation to these routes and obstacles or in relation to the consuming territories.

Economic arrangements for the promotion of traffic and transportation are artificial transport routes, such as roads, canals, river improvements, port constructions, media of communication such as telegraphs, cables, telephones, the post, railways, river, lake, canal and ocean shipping, wagons, trucks, cara-

vans, warehouses, and the organized freight forwarding service.

Artificial hindrances of traffic are the quarantine, blockade in times of war or suspension of relations between countries, contraband regulations, activities of pirates and land robbers, frontier regulations of countries, states, provinces, municipalities, tribes and similar impediments.

Traffic conditions affect international commerce inasmuch as they affect the carriage of persons, communications and goods. The carriage of persons is of importance in facilitating the meeting between buyer and seller; the carriage of news facilitates the communication between buyer and seller, leading to the negotiation and finally to the conclusion of business deals; and lastly the carriage of goods forms the fundamental basis of international commerce.

The extent to which traffic conditions facilitate the course of international commerce is of greater importance than in domestic commerce, because in international commerce the distances between the seller and the buyer are generally greater. The principal element in this connection is the cost of transportation. While it is not of equal importance for all classes of goods, nevertheless the item of transportation cost, together with the item of customs duties, affects the competitiveness of an article. It may make an article incapable of competition, although from the point of view of production cost and efficiency it be competitive, and on the other hand it may make an article capable of competition, although from the point of view of production cost and efficiency it was not competitive to start with.

The element of traffic conditions affects also the concentration of merchandise in certain points. Favorable traffic conditions are responsible for the origin and growth of trading centres. In the early history of commerce the development of commercial activity was bound to the route which the merchandise shipment took. Business could be carried on only from the spot where goods were located or expected. Nowadays commercial transactions are concluded by merchants located in trading centres where the goods bought or sold may never be seen. A commercial technique has been developed making this condition rather the rule for some classes of goods. While this condition appears as a sort of emancipation from traffic conditions, never-

theless it is the outgrowth of the development of transportation routes and media. Only the highly developed state of transport media for persons and communications permits the merchant to sell as a middleman merchandise which he neither accepts nor delivers in person, because he can issue instructions which he knows will be promptly and accurately carried out, and which he can control with very little loss of time.

However, business carried on in this way is never the principal source of the commercial activity of a trading center. Actual storing of merchandise in warehouses and actual shipment guides the bulk of international commerce activities to important maritime ports. For this reason the traffic radius of a trading center still coincides with its selling radius, although here and there are places which are more important as traffic centers than as trading centers, as for instance Rotterdam. In all of the important traffic centers the tendency is to seek the control of the commerce that goes through it, and the trading center from which the traffic in goods sold therefrom is alienated cannot fully retain control of the commerce in question (San Francisco and Seattle with relation to the Far East trade illustrate this point).

Transportation facilities, to afford the maximum of benefit to commerce, must meet the following requirements: a) *security,* b) *speed,* c) *frequency and regularity of service,* d) *cheapness,* e) *simplicity of routine* and f) *suitability of individual transport media.*

a) *Security.* Taking first the matter of the carriage of communications—which is an essential element in facilitating commercial transactions beween persons separated by any distance, we have an illustration of a safe and cheap facility (for certain distances) in the telephone: here we have security, as the communicating parties can be personally identified; speed—practically instantaneous; all the other requirements are also fully met.

Next to the telephone we have the postal service. This has been highly developed and being managed by governments, with international agreements covering the service between countries. it affords the security of official supervision and responsibility; it carries communications with as much speed as is humanly at-

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tainable in the forwarding of written messages; and the risk is only limited to acts of God and to the delays of censorship and of blockades in times of war.

Lastly we have the telegraph, the cable and the wireless service. Here the essential characteristic is speed. Commerce between distant points largely depends upon these services, though the element of insecurity is comparatively high, as messages are liable to mutilation in the course of transmission. But the necessity of securing practically instantaneous connections with distant points outweighs the element of insecurity, particularly as ingenious devices have been developed to counteract the risk of mutilations.

In the carriage of goods and of persons we find the element of security exemplified in the train service on well regulated railroads in progressive countries. In navigation the element of security is a little lower, and here we find gradations of security —inland navigation being considered safer than ocean navigation; in the case of the latter again the element of security is higher in steamers than in sailing vessels. Even among individual vessels the element of security varies with the age and the equipment of the vessels, as those provided with the wireless apparatus compared with vessels lacking it. Of all media of transportation the characteristic of the lowest degree of security is illustrated by a caravan passing through territories subject to attacks by uncivilized tribes.

The element of insecurity in means of transportation leads to *transport insurance*. The degree of the risk is determined by the degree of insecurity of the transportation and by the value of the goods. Therefore almost all goods shipped by sea as freight are insured, whereas in the case of articles transmitted through the post only those of exceptional value are registered or insured.

Security in transportation is one of the bases of modern international commerce. The improvement in the means of transportation with the view of increasing the degree of security afforded by them, the pacification and the civilization of undeveloped territories are the premises on which international commerce has expanded and made it possible to sell goods everywhere at low prices.

b) *Speed.* Speed in transportation is another important element in the development of international commerce. It is not only important in the matter of carrying persons and communications, but also in the carriage of goods. The speed of transport media has made it possible to conclude business on the basis of guaranteed time delivery. In the earlier days of international commerce goods were largely shipped to destination unsold, the endeavor being to dispose of them at the best possible prices. Nowadays it is possible to receive an inquiry for goods, to make an offer, to receive an order, to ship the goods and to receive the purchase price all within a reasonable space of time, and this is the modern method of international commerce. The risk and the speculation involved in the obsolete method hindered the expansion of international commerce. But even to-day the element of celerity is an important factor. Where goods cannot be delivered in time to be of use, business between two points cannot develop. We are on the threshold of a new era in transportation with the prospect of the development of commercial aerial transportation.

c) The next factor in importance is the *frequency* and the *regularity* of transportation service. The railroad service in most civilized countries furnishes the maximum of frequency and regularity in transportation, but even this service is apt to be inadequate and irregular in undeveloped territories. Balkan states, the Far East, certain Latin-American countries and colonial possessions of various powers are examples of this. Frequency and regularity in maritime transport are of tremendous importance for the development of commerce between the exporting and the importing countries. Occasional and irregular sailings cannot promote commerce between an exporting country and the customer overseas.

Regularity in transportation is an element which makes it possible for an exporter to make definite delivery promises. He must have the assurance that the goods which he has ready for shipment will be taken on board at a certain time and delivered at the destination within a period which he can calculate with some degree of accuracy. For this reason regular steamship lines offer greater security than occasional sailings of so-called tramp boats.

d) The *cheapness* of transportation is an element of obvious importance. The post office furnishes an illustration of extension of traffic due to cheapness. The parcels post in particular makes the transportation of small lots of goods so cheap as to stimulate business of this character enormously where it has been introduced. Cheapness of telegraph and cable messages—with the additional economy of compressing messages into a small number of words through the use of codes—is a factor in facilitating international commerce. The cheapness of transport on board of vessels, as compared with the dearer but speedier transportation by railways, is a factor greatly affecting competitiveness where waterways and railway routes serve the same points. Special inland freight rates for export traffic have been designed in many countries to add to the competitiveness of export merchandise.

e) *Simplicity of routine.* The reduction to the minimum of difficulties, labor and trouble in international trade relations has greatly furthered the expansion of international commerce. The introduction of uniform Bills of Lading, of through Bills of Lading which make it possible to convey goods over a series of connecting railways to the port of shipment, without the multiplication of handling en route are illustrations.

The complicated nature of railway freight rates, the arbitrary charges for maritime freights on the basis of either space or weight at the option of the carrier are illustrations to the contrary.

f) *Suitability of the transport media.* Finally we must consider as a factor furthering international commerce in the matter of transportation such developments in the equipment of transport media as refrigerating devices on railroads and ocean vessels, special cars and specially designed arrangements for dealing quickly and effectively with special classes of merchandise, tank boats for carrying oils, etc.

4. *Governmental Influences Affecting the Exchange of Goods between Countries.*

It is the province of commercial politics to examine at length the governmental influences affecting the passing of mer-

chandise across the frontiers dividing two sovereignties. But a cursory view of these factors may not be out of place here.

States can forbid the export, the import or the transit of specified commodities. These prohibitions may be temporary or permanent, conditional or unconditional, general or limited to certain economic subjects. The temporary suspension of such prohibitions opens a temporary business opportunity of which merchants may take a quick advantage, but it may also happen that in doing so unsound marketing conditions may result.

Conditional prohibitions generally relate to characteristics of merchandise that are not essential, but that may make their introduction undesirable, as prohibitions of importation of diseased animals or meats, or of articles offending local ideas of religion or morality, or perhaps wrapped into newspapers offending against local censorship. Conditional prohibitions may be so rigorously enforced as to approximate the virtual exclusion of certain imports.

Import prohibitions may be due to the existence of a monopoly, and be suspended for the benefit of the monopoly licensee, which may be the state or a private person. Here the commerce is not excluded, but limited. The limitation may not even affect the volume of importation, but limit the marketing to a single customer. Nevertheless it is a factor seriously affecting the organization and the machinery of international commerce. For these monopolies are frequently in the habit of asking only a few sources of supply for bids, excluding entire countries and many competitors from possibility of competing.

Another important and practically universal factor affecting the passage of commodities from one sovereignty to another is the *customs tariff*, whereby import, export or sometimes (rarely) transit customs duties are levied upon goods.

These customs duties may have the aim of making traffic in certain commodities impossible. Such duties are known as *prohibitive*. Or they may have the aim of rendering the importation of foreign goods difficult, for the purpose of protecting home industries, and these are known as *protective*, or a state may rely upon duties levied on goods passing from or into its sovereignty in order to raise administrative revenues, and such duties are known as customs duties *for revenue purposes*. Duties may be

levied upon the quantity or weight of goods, when they are known as *specific duties,* and upon the value of goods, when they are known as *ad valorem duties.*

In the case of specific duties levied upon the weight of goods, the duties may be based upon the gross weight, that is the weight of goods plus the interior wrappings and the outer packings, or upon the net weight of goods, or upon the weight of goods plus the interior wrappings but without the outer packings. The difference in weight between the net contents and the wrappings may be either actual, or may be arbitrarily fixed by law. It is in such cases the endeavor of the parties concerned in the sale and in the purchase to provide packing of the lightest character compatible with the safety and the nature of goods. This endeavor is checked by the right reserved in the customs tariffs of many countries to calculate the so-called tare (the weight of packing) either on the basis of actual weight or of the arbitrary customs regulation, whichever is most profitable to the state.

Certain customs duties must be considered as unwarranted impediments to international commerce, as for instance import duties on samples, catalogs, etc., duties levied in certain exporting countries upon returned merchandise or empty envelopes such as sacks, casks, etc.

Customs duties are an important factor in the calculations of commerce, and in order to create a rational organization of business in given commodities and with given markets the export merchant must be able to depend upon a certain stability in such matters. The export merchant calculates the marketability of his article in a given market on the basis of existing customs duties. He creates an organization, he invests a capital; back of him the production or the manufacture effects a similar adjustment, and even a greater capital investment is involved. Therefore it is clear that such an important factor must have some form of permanency. This leads to the conclusion of commercial treaties beween states. In many countries customs tariffs are changed very frequently, leading to much insecurity. In some countries changes are contemplated because of impending granting of monopolies, leading to temporary unsound speculative importations. A consequence of such a state

of affairs is found in unstable prices which affect business very unfavorably. An intensified importation may bring about an overburdening of warehousing facilities and sometimes an actual crisis.

Less dangerous is this intensified activity where due notice has been given of a determined change in tariff duties and where commerce seeks to adjust itself before the new duties go into effect.

A customs tariff may be in effect for goods originating in all countries on an equal basis, or some countries may have a *preferential treatment.* A veiled method of affording preferential treatment to a country is to single out varieties of goods pre-eminently furnished by one country and to base customs duties upon varieties, imposing either lighter or heavier import duties.

It is possible also to maintain a prohibitive attitude to a given country in the matter of customs duties without any apparent differentiation between countries, by subjecting a country's principal export articles to specially heavy duties.

Commercial treaties between countries may exact the so-called *most favored nation* treatment for the products of a country, in which case any preference in customs tariff matters expressly granted to one country becomes automatically effective for the goods of the country which is the beneficiary of the most favored nation clause.

Some tariffs impose different duties upon articles imported overland and by seagoing vessels. This may have the aim of promoting the use of specific means of transportation, perhaps in order to build up port activity.

Again some customs tariffs impose a lighter duty upon articles imported by vessels flying the national flag, which may have the aim of promoting the interests of national mercantile marine, or of placing at a disadvantage the commerce of specified countries with which the national marine maintains no regular connections.

In order to arrive at the correct origin of goods, these countries demand a *certificate of origin*, the obtaining of which in the case of some countries is connected with almost prohibitive red tape.

The practice of many countries to exact heavy fines for minor contraventions of frequently complicated and obscure regulations as to packing, document technique, etc., imposes on the one hand upon the export merchant the necessity of rigorous care, and presents on the other an obstacle to the smooth development of international commerce which in the case of some smaller states amounts almost to an international scandal.

States not only impede but can also promote the passage of goods across their frontiers. *Export bounties,* which can be direct or indirect (in the shape of tax and customs duty restitutions) are granted in some countries to promote the export of certain commodities. An indirect export bounty is a rebate or *drawback* for duties imposed upon the import of raw and semi-raw products when worked up at home and re-exported in the shape of a manufactured product. In some countries permission is granted to import duty-free a quantity of raw products corresponding to the quantity of manufactured goods exported. These licenses may be either used by the licensees or sold to others.

Extraordinary occasions, such as the recent world war, may effect a thorough-going temporary control of exports and imports, for the purpose of conservation of materials needed for national defense, or for checking hostile operations, with the virtual prohibition of certain imports and exports and a strict system of licensing others. The War Trade Board was the medium used by the government of United States to exercise this control.

Blockade and contraband regulations in times of war affect transportation of goods, aiming to prevent the sinews of war from being delivered into the hands of the enemy.

In addition to duties imposed upon imports and exports and transit of goods via national frontiers and sea ports, many provincial, regional and municipal bodies impose minor taxes of local character on goods passing across interior boundaries.

Some tariffs exempt from duty raw products introduced into the country merely for the purpose of improvement or re-export, or manufactured goods the basis of which was the domestic raw product exported abroad and re-imported in improved condition.

Articles sent to expositions and fairs are exempt from duty in most countries, or a duty is collected thereon and reimbursed on re-export.

Most countries permit the passage of goods in transit, either in bond, or otherwise, without charging customs duties.

Some countries permit the storing of foreign goods in the limits of a certain territory, without charging any customs duties. This arrangement is generally carried out in connection with a port, forming a so-called free port. Here foreign goods may be re-loaded and shipped to another foreign destination, or they may be withdrawn, improved or unimproved as the occasion may demand, and enter the dutiable territory against payment of the customs duty just for the quantity of material required.

In addition, bonded warehouses permit the duty-free storing of foreign merchandise or produce against a bond, enabling merchants to withdraw commodities as required, with a postponement of the payment of customs duties or of consumption taxes.

5. *Demand and Purchasing Power as Factors in the Development of International Commerce.*

The extent of the demand for foreign goods in the country of importation depends upon many conditions:

Upon the size of the population, upon its natural characteristics, upon outward natural conditions in which they live, upon their degree of culture, upon their economic development, upon their intercourse with other nations, upon their historic past, and upon extraneous circumstances.

A people may have a higher or a lower standard of living, with varying requirements for its daily life. To a considerable extent this may depend upon nature, principally upon climate, then upon the topography, upon vegetation, etc. With increasing culture there comes a growth of requirements; with increasing production comes a demand for the means of production. But even two countries that may not differ in the degree of culture may develop different requirements because of varying character of cultural and economic development: countries with a religion involving high ritual will need wax candles, holy pictures, embroidered vestments, whereas countries with a non-

ritualistic religion will have no demand for these articles. Favorable political and economic conditions may cause an increase of enterprise, and therefore an increased demand for means of production, for articles of luxury. Unfavorable political conditions may lead to an extraordinary temporary demand for arms and armaments, for goods needed in the restoration of property destroyed in the war. An important element is the degree in which the broad masses of population participate in the culture of the wealthy classes—China, Japan, Russia may illustrate this point. Lively intercourse with culturally higher developed nations popularizes their manner of life and creates a demand for articles currently used by them. Missionaries have been frequently the first to acquaint natives in various fields with the most elementary requirements of civilized life, leading up to a demand for refinements and luxuries.

These conditions affect not only the degree but also the character of the demand in importing countries for foreign goods. And in this connection the tastes, the customs, the religion, the natural inclinations, the historic traditions, as well as the topographic and climatic conditions affect this demand, particularly in such matters as foodstuffs, clothing and household goods.

To the extent that the economic satisfaction of an existing need through the domestic production is unattainable, there exists in a given market a *demand* for importation.

This may mean that in spite of the existing demand the domestic production is unequal to the task of covering it fully. Foreign goods of the same quality may be imported to fill the gap. Or the domestic production may fill the need existing for a low quality of products, without being able to supply the higher quality for which a demand exists. And finally, the domestic production may meet the domestic demand for a high quality product, but not the demand for a cheaper and inferior product. And in the matter of taste, a foreign importation may meet demands which cannot be satisfied at home, as for instance French millinery and ladies' apparel, American shoes, so-called Panama hats, etc.

The importability of an article need not necessarily be limited to the existing demand. The existing demand for importa-

tion merely assures a market for a foreign article, provided the imported article can meet the demand. But by competition with the domestic product a foreign article may even conquer a portion of the custom which the domestic product might legitimately claim. The exporting merchant must therefore be acquainted not only with the actual demand for importation, but with the entire potential demand in a given market for a given article. He will therefore not content himself with drawing conclusions from existing conditions as illustrated in the import and export statistics, but will endeavor to study for himself the degree of the general demand for an article and the possibilities of either increasing it or perhaps even of awakening it. And here the enterprising merchant will find his most promising and most difficult prospects. In order to attain success here he must study all of the factors mentioned above as affecting demand. The introduction and the stimulation of the demand for illuminating oils and lamps, of certain textiles, of sewing machines, typewriters, automobiles, etc., bristles with the romance of either awakening new needs or of successfully catering to existing needs in difficult markets.

The buying of foreign goods to satisfy local demand presupposes the ability and the willingness to purchase, in other words a *purchasing power*, the power to pay to the foreign exporter the price which he desires for his goods.

For this reason the actual importations into a country do not only depend upon its need of importations, but also upon its purchasing power. Here considerable variations are possible. There are densely populated countries with a very inferior purchasing power per capita, like India and China, and countries with a slim population and with a tremendous purchasing power per capita, like Australia.

Purchasing power must be considered as average purchasing power per capita, and as purchasing power in individual social strata. It is the latter which is of particular significance as a criterion of possibility of importation.

The more the purchasing power is distributed among the wide strata of the population, the better chances there are for increasing imports. The concentration of the purchasing power in narrow circles will seldom recompense even by the increased

average per capita purchases within these narrow circles, or by the increased average of value and quality, for the lacking demand in the broader strata. The more evenly distributed in the population is the purchasing power, the more will the predominating quality of the imported goods depend upon the average per capita purchasing power of the country. Given a concentration of the purchasing power in a narrow section of the population, in spite of the average great wealth of a country, there will be only a small importation of high quality goods, and the bulk of importation will be in goods of the lowest quality.

The purchasing power of a country as towards other countries depends upon its *economic wealth,* upon its *income earning conditions* and upon the *exchange value of its money.*

The economic wealth of a country forms the basis of its purchasing power. It does not coincide with the natural wealth of the country, that is with the wealth of the country in natural resources without the human agent. There are countries of magnificent natural resources and of undeveloped purchasing power. It is the economic exploitation which transforms natural wealth into economic wealth.

Since the individual uses a portion of his earned income for the satisfaction of his needs, not consuming his capital, it is the earning capacity and the income derived thereby which determines the purchasing power of a nation. Factors influencing this are periods of economic "booms" and depressions, as well social developments which sometimes transform the income conditions of entire strata of the population.

Finally the exchange value of a country's money is an important factor affecting the purchasing power of a country for articles of import; this is indicated by the standing of the country's bills of exchange in the international exchange market, because the major portion of international debt balances is settled through bills of exchange and remittances to banks equalizing same, as we will see in due course.

The international exchange value of a country's money may undergo general changes, or changes in relation to one particular foreign country. In the first instance the change will be due to alterations in the economic conditions (as having occurred or

as being expected) in the country itself, in the second instance to alterations of economic conditions in the foreign country.

If the international exchange value of a country's money increases, the purchasing power of the country in international commerce also increases, for then the same amount of domestic money can cover greater quantities of foreign currency. Commercially expressed: if the exchange value of the importing country's money increases, and the exporter quotes the same price for his goods, the importer procures his purchases at a smaller outlay of his domestic money. If the exporter quotes in the currency of the importing country, he can quote lower prices without suffering any loss in his profit, all other conditions remaining equal.

The ability of a country to export rises when the international exchange value of its money sinks, and at the same time its purchasing power, or its capacity to import suffers, all other elements remaining equal.

In view of the great importance of international exhange rates in all commercial possibilities, it is the business of every merchant interested in international commerce to familiarize himself with and to watch all those conditions which affect international exchange, such as trade balances, national credit, rates of interest, important international capital investments, international bill and bullion transfers, economic conditions which lead to an influx of funds from abroad, etc.

Changes in the exchange market may temporarily aid or hinder international commerce in a certain direction, but the stability of the exchange is always an aid, and an instability of the exchange is always a hindrance. Exchange stability permits the merchant to calculate and plan his business transactions with a smaller risk margin, encouraging him to invest more liberally in extensive organization or in manufacturing plants which depend upon international commerce.

Side by side with purchasing power, *purchasing eagerness* is an element of some importance. The factors determining the eagerness to purchase are: the demand for the foreign article, the amount of money which must be given up to procure it—the price, and the subjective valuation of the money thus given

up. The greater the need, and the lower the price and the subjective valuation of money, the greater is the purchasing eagerness.

6. *Commercial Laws and Usages as Factors in International Commerce.*

The development of international commerce is further affected by laws prevailing in the country where the purchaser is located, in the country where the seller is domiciled, and finally in countries through which the goods pass in transit.

The facility of commercial intercourse between persons residing in various countries has brought about an international relationship between the laws of different countries relating to persons and obligations.

In many countries outside of Great Britain and the United States the laws of commerce constitute a distinct branch of jurisprudence, and also a distinction is made between public law and private law.

The public law of interest in international commercial relations includes regulations permitting aliens to settle and to do business, their right to purchase real estate, the right of foreign traveling salesmen to ply their occupation, the right of navigation under a foreign flag, taxation, customs tariffs, patent and trade-mark laws, regulations governing specified enterprises such as banking and insurance, regulations governing incorporation or the floating of stock companies, or commerce in specific articles such as provisions and liquors, weights, measures, etc. Commercial treaties between states frequently include detailed stipulations with regard to the rights of foreigners under such legislation.

Private law, inasfar as it affects the development of international commerce, refers to special commercial regulations, including promissory notes, commercial usages, regulations of autonomous bodies such as exchanges, etc.

In certain countries aliens are exempt from local jurisdiction and placed under consular jurisdiction, being subject to their national laws. Among these countries is China, Persia and Siam. Turkey until a short time before the war granted consular jurisdiction to foreigners. Japan abolished consular jurisdiction

only a few years ago, and all foreigners residing in Japan are subject to Japanese laws. In Egypt a mixed European tribunal hears cases in which the rights of foreigners are involved.

Just and rigorous commercial laws, an impartial and honest administration of same, a judiciary that is honorable and competent, the recognition of proper commercial usages as binding, low cost of litigation—these are elements of vital importance in international commerce.

The international commercial law is a development towards which a number of international congresses have contributed much thought and effort. The rights of nationals in foreign countries are generally safeguarded by commercial treaties.

The prudent international merchant will realize that as long as there are possibilities of conflict of laws his agreements with his business connections abroad should be in writing, precisely worded, strictly carried out as to avoid the necessity of litigation. Even in countries with somewhat undeveloped or unsatisfactory administration of justice there exists a powerful public opinion in the business community which a reputable firm will not seek to offend.

The expensiveness of litigation, delays and bad feeling unavoidable in connection therewith, and the difficulty of obtaining substantial justice in many foreign places have led the commercial world to adopt in many places the very satisfactory method of settling disputes through courts of arbitration. Such courts of arbitration are organized either through private understanding between litigants or through a semi-public body like a chamber of commerce or exchange. The simplicity, celerity and practically universal fairness of such settlements commend the arbitration method more and more to the commercial world.

In another place we will deal with the international law as affecting the rights of individuals, firms, corporations in foreign countries, and the various points of international sales contracts.

7. *Official and Private Promotion of International Commerce as a Factor in its Development.*

In most industrial countries not only the government, but also the producers and merchants themeslves recognize the use-

fulness of providing auxiliary services for the promotion of commerce with foreign markets such as private enterprise cannot provide. It should not be the aim of such efforts to aid an individual business man in specific business transactions, but to promote the broad interests of national trade with foreign countries, to secure information of educative character, to point out opportunities abroad, to collect data, to correct defects, to protect national interests.

In the United States the interests of American commerce in foreign markets are officially promoted by the U. S. Department of Commerce, and by the Department of State. The Department of Commerce maintains for that purpose a well organized section known as the Bureau of Foreign and Domestic Commerce, with headquarters in Washington and branches in several cities. The Department of State through its consuls furnishes a very active service in promoting American commerce abroad. The reports of these consuls are published by the Department of Commerce in Commerce Reports. The Economic Intelligence Section of the Foreign Trade Adviser Division in the State Department studies all matters affecting international commerce but in no way duplicates the work of the Department of Commerce. The latter serves individual business men, the former operates entirely for the information of government departments, as will be pointed out in our detailed analysis in Chapter XIX.

Commercial attachés, being diplomatic officers accredited to several American embassies abroad, but under the direction of the Secretary of Commerce, and a staff of trade commissioners sent on commercial missions to foreign markets complete a scheme of trade promotion which in results attained is unequaled by any nation.

National bodies more or less directly devoted to the promotion of America's trade with foreign countries are the National Foreign Trade Council, the National Association of Manufacturers, the American Manufacturers' Export Association, the Chamber of Commerce of the United States of America, the Philadelphia Commercial Museum.

Chambers of commerce in many cities in the United States maintain sections paying special attention to foreign trade.

There are American chambers of commerce in several foreign cities. Many of the organizations named maintain information bureaus, and other efforts at foreign trade promotion attempted from time to time by American and foreign interests comprise sample warehouses, special and general expositions, etc.

Banks and trust companies have added the foreign trade promotion feature to their activities, as for instance the American Express Company, the Guarantee Trust Company, the Irving National Bank, the National City Bank and others.

A thorough review of the activities of all of these official and private organizations will be found in Chapter XIX. We must content ourselves here with merely pointing out trade promotion as a factor in international commerce.

CHAPTER III.

The Organization of General Commerce.

1. *Merchants as Middlemen.*

The development of international commerce has called into existence a widely ramified organization of independent and semi-independent participants in the commercial transactions involved in an interchange of goods between two countries. The sphere of activities of these participants is not always sharply demarcated, for we find many of them combining characteristic of several classes, as for instance commission merchants acting as principals and as agents or as middlemen, producers acting as merchants, and consumers, such as great plantation and mining enterprises acting as import merchants for their own supplies and for commodities which they sell to their employees, but for the purpose of our consideration we will endeavor to outline the characteristic functions of each class of participants in international commerce.

It will be well to precede an analysis of the organization of international commerce with a brief review of the organization of general commerce from the merchandizing point of view, and then proceed to a study of the organization of international commerce, reviewing the activity of these commercial factors when performing their functions in transactions of international character.

It must be borne in mind, however, that in modern export and import practice there has come about a somewhat puzzling intertwining of these functions, as will be pointed out when we come to review modern international merchandizing methods, and our purpose at this point is merely to analyze the characteristics of each class of these independent links in the organization without regard to the fact that in practice there occurs a considerable overlapping of these functions.

Every person participating in commercial transactions for his own account is a *trader* in the widest sense of the term. A somewhat stricter application of the word trader will limit it to those economic units who in the carrying on of their enterprise regularly conclude commercial transactions. This still very broad application of the word trader would include among others also producers who are regularly called upon to conclude purchases and sales. This would also include such organizations as co-operative associations of consumers, as for instance Zemstvos in Russia, which include among their functions the purchase of materials and machinery for their members.

But in the strictest sense the word trader or merchant applies to those economic units who make a business of carrying on strictly commercial transactions for their own account.

A *middleman* in the widest sense of the term is he who concludes commercial transactions for others or whose activity brings about the conclusion of commercial transactions between others, without being a paid employee of the principals. This would include the whole range of commission merchants, agents, brokers and auctioneers. The last three classes make a business of concluding commercial transactions in the name of other parties and are thus middlemen in the stricter construction of the term.

Commission merchants, however, though they charge a commission on percentage basis for their services, conclude also largely transactions in their own name, assuming obligations like traders in the stricter sense of the term, which require a capital investment like those of ordinary merchants, so that their position in the organization of commerce more nearly approaches that of merchants, and causes them to seek in addition to a remuneration on the basis of a percentage commission, which they receive on some transactions, a profit on many transactions that corresponds in its proportion to the profits of ordinary merchants.

The organization of commerce includes also auxiliary enterprises such as warehousing, shipping, freight forwarding, insurance, banking and credit information enterprises whose activities will be touched upon in due course.

2. *Producers and Consumers.*

He who gains or brings forth from natural resources or works up and improves industrially material products is called a *producer.* Strictly speaking, however, a producer is he who carries on such an activity as an independent unit and who becomes the owner of his products. The producer participates in commerce by the sale of his products and by the purchase of supplies which he needs as means of production. The extent of the producer's participation in commerce depends entirely upon the size of his production, and we must therefore differentiate between production on a small scale and on a large scale. We have thus in the case of natural products a differentiation between large plantations, timber exploiting enterprises, cattle growers, large fisheries, big mining undertakings on the one hand, and small agriculturists, ranchers, fishermen, miners, etc. on the other. In the case of industrial products likewise we have large manufacturing enterprises on the one hand and small tradesmen and artizans on the other.

In the consideration of the organization of international commerce we will have in mind only those producers and manufacturers whose volume of production makes it possible for them to participate in international transactions.

The commercial transactions of the large producers are characterized by greater volume than those of the small producers; they are also distinct in the character of those who buy from them. Large producers sell in the first instance to the trade —to wholesale merchants and to other producers; they are not limited to sales in the locality of their producing establishments but sell to the trade also in other cities, and if they maintain an export organization also in other countries. Frequently they seek to eliminate the dealer and establish a retail selling organization of their own, opening stores in various cities, or they also seek to eliminate the middleman in export, opening branches and agencies abroad. The tendency of eliminating middlemen is particularly characteristic of large manufacturing enterprises.

The small producer generally sells locally, and if his production embraces articles of immediate consumption he sells to consumers. Where his production—small as it is—exceeds the

demand in his immediate locality, particularly in the production of industrial raw products and supplies, he sells to merchants in the vicinity or to merchants' and manufacturers' representatives who call on him. Between the wholesale merchant and the small producer there may be intermediate links who buy up small quantities of material from small producers until they collect such large quantities as may interest the wholesale trade.

Similarly in the purchase of supplies large producers buy from other large producers or from wholesale merchants in distant cities and even abroad, while the small producer is to some extent dependent upon sources of supply nearer at hand, or buys at a distance when his wants are catered to by traveling salesmen calling on him.

The volume of operations characterizing the large producers requires frequently an extensive commercial selling and purchasing organization and thus they acquire the character of merchants in addition to that of producers.

In certain countries producers unite into combines for the increase of commercial efficiency, without losing their independent character. Such combinations have been frowned upon by the spirit of American laws, being considered in restraint of trade. Where permitted, the combines have either the aim of effecting economies in buying or in securing advantages over their domestic or foreign competitors in selling. This has been the policy of German kartells and syndicates. Combinations of producers in America must be free from the taint of restraint of trade. Thus they may unite informally in employing a common set of traveling salesmen abroad, or establishing common warehouses at home or abroad, or in undertaking other steps for the promotion of their export trade under the recently enacted Webb-Pomerene bill.

The participation of the consumer in commerce was already indicated in considering the producer as buyer of supplies needed in his production. Here the producer appears in the capacity of a consumer. A vast variety of commercial enterprises must make purchases for their own consumption, and where this is large, they buy from producers or from the wholesale trade.

Consumers in many places have formed co-operative organizations which appear as large buyers of raw and manufactured products in behalf of their members.

3. *Merchants Trading for Own Account.*

The *trader* or *merchant* in the strictest construction of the term buys and sells goods on which he has effected no essential improvements or alterations. The sale does not always follow the purchase. Occasionally the sale is effected first and the purchase follows. It may be that the merchant has an unusual selling opportunity which he takes advantage of in the hope or in the knowledge that he can procure the goods in time to effect delivery. This may be a matter of speculation, if the merchant effects the sale in the hope that he may secure goods at a price lower than the sales price before delivery to his customer, or a matter of ordinary commercial prudence in case he does not wish to assume the risk of buying goods without the assurance of a profitable selling opportunity. He must have, however, the assurance of quotations and deliveries by a producer, or he may effect his sale conditionally, as is done in the case of indent business.

In accordance with the volume of individual transactions the merchant may be a *wholesale* merchant or a *retail* merchant. A retail merchant generally has a shop or a store where the individual consumer appears as a buyer. Or he may even be an itinerant vendor or peddler. In communities where retail selling establishments are few and far between this itinerant vendor performs a necessary function; otherwise he appears as a competitor of retail establishments, and in view of his small expenses, his solicitations at the consumer's place of residence and his generally lower responsibility, he appears as an economically harmful link in the commercial organization from the point of view of established trade cultivating a regular business. In international commerce the peddler crops up sometimes as a customer of dubious desirability, and exporting manufacturers have often had unpleasant experiences with Syrian and Turkish peddlers operating in commercially undeveloped sections of Mexico, Hayti and other countries.

The retail character of the business of a store is not altogether dependent upon the volume of business transacted therein. The immense department stores, and retail stores forming units in a chain of stores are retail establishments only in the character of their sales to individuals; from the point of view of purchasing they are enterprises of wholesale merchants.

In the organization of commerce there is also encountered in certain countries the so-called caravan trade, which is itinerant vending between communities. Caravan trade is frequently a barter trade. Here, too, the trade may be either wholesale or retail, and frequently a combination of both.

Wholesale and retail selling may be combined in the same enterprise, in different departments.

Wholesale merchants may limit their business to a certain merchandise or class of merchandise, or handle a very wide range of products. Specializing wholesalers generally do a domestic business, or an international business with countries that are well developed commercially. While the retail merchant regularly buys first and sells from stock, wholesale merchants frequently, as already pointed out, sell first and cover their requirements afterwards. But as a rule, particularly where they specialize in certain classes of merchandise, they maintain wholesale stocks and sell a great deal from stock. In the export trade, however, particularly where a wide range of products is handled, the rule is to carry on business without a stock of merchandise.

In certain oversea products a number of wholesale merchants are linked together in the business of distribution. We may have a native wholesale merchant overseas, an exporter in the oversea exporting center, an importer in the United States or in Europe and a wholesale merchant distributing the product in the United States or in Europe. The middle links in such operations generally represent the highest degree of international commercial activity, while the outer links are less active internationally.

The wholesale merchant intervenes between the manufacturer or producer on the one hand and the retail dealer on the other. He is thus a middleman. The advantages of such middlemen, as well as of commission merchants and agents as middle-

men, will be discussed in detail in our review of export activities. These advantages are practically the same in the general organization of commerce, that is between the manufacturer and the inland retail trade; briefly summarized they are: the possibility of concentrating resources upon the item of production and efficiency, the diminution of business risk, the possibility of specializing and standardizing, the reduction of merchandizing expense, better terms of payment which a wholesale buyer can offer to the manufacturer, a quicker turnover, and the assumption of speculative risks by the wholesaler instead of the manufacturer. Nevertheless manufacturers frequently seek to go around the wholesaler in order to benefit by the higher prices possible through the elimination of the middleman.

4. *Commission Merchants and Agent.*

Commission merchants and *agents,* called in Great Britain *"mercantile agents,"* are middlemen in the broad sense of the term. They come closer to traders than any other middlemen. They are to a large extent independent traders inasmuch as they conclude commercial transactions largely in their own firm name and require the prestige and capital of regular merchants. In fact, inasmuch as the commission merchant frequently finances oversea business, he requires a greater capital than a domestic merchant who frequently enjoys credit favors from the manufacturer and sells to his trade on short terms. For this reason commission business is very largely combined with business for the firm's own account.

A commission agent is he who in his own name concludes buying and selling transactions for the account of his commission principal.

The commission agent may be instructed by his principal to *buy* merchandise for his account.

The commission to *sell* is executed by the agent undertaking to secure orders for the supply of goods, generally on the basis of samples and catalogs, or to sell goods shipped him by his principal. The latter method is known as selling on consignment, the principal being the *consignor* and the commission agent the *consignee.*

Consignments may be sent occasionally as single lots, or the agent may be entrusted with a consignment stock which is currently replenished.

The commission agent may combine his activity as buyer on commission with that of selling on commission, provided he preserves the interests of his principals on either side.

The commission agent concludes transactions in his own name, and he alone is responsible to the third contracting party, whether he mentions the name of his principal or not. He can assume part or all the risk involved in selling to his trade, for which he charges his principal a commission known as *del credere* commission.

While concluding business in his own name, the commission merchant operates for the account of his principal. He must inform his principal correctly of the price on the basis of which he concludes business transactions with third parties.

His remuneration is found in the so-called *"commission,"* on the basis of a percentage. In the case of a buying commission the percentage is generally figured on the buying value plus buying expenses, in the case of a selling commission on the selling price before addition of selling expenses.

5. *Selling Agents and Representatives.*

A *selling agent* or *representative* is contractually entrusted by one or more principals, who may be manufacturers or merchants, with the task of regularly mediating and concluding sales for them. The characteristic of a selling agent is the permanent arrangement for a specified time and a specified territory.

As a matter of fact, arrangements between agents and principals cover the widest range of variety. The agent may maintain a small office and depend upon his own efforts in business getting, or he may have a large sales organization. He may represent one principal solely and devote himself to the promotion of the sales of his principal's products in a limited territory or have a broadcast commission.

Or he may combine a number of so-called non-conflicting lines either for a limited territory or for the entire export field.

In international commerce agents are generally located in the export centers, preferably at the port of shipment; or they may be located abroad, generally in the import centers and preferably in the ports of entry. Agents may be nationals of the country of export or nationals of the country of import or other foreigners.

The agent is generally remunerated on the basis of a percentage of sales effected, and it is frequently provided in contracts that if the sales exceed a certain annual turnover a graded extra remuneration is granted to him. In many cases the agent receives an allowance for expenses and even a stipulated annual salary or retainer.

A buying agent stands in the same relation to his principal, but his activity is directed to the purchase of goods in behalf of principals located too far from the source of production to be able to take advantage of favorable buying opportunities or to examine and to select suitable goods. Thus in exporting countries buying agents make purchases in behalf of principals located in the importing countries. In America and in Europe buying agents make purchases in behalf of principals located in South America, the Far East or Australia. And there are buying agents for American and European firms who purchase tobaccos, cocoanuts, bean oil, copra, toys, silks, etc., where these are produced.

The agents generally have a power of attorney in behalf of their principals and conclude business in their name. It is the agent generally who sends invoices to customers. If he is located in the exporting country and at the port of shipment, he attends to the shipping formalities. If he is located in the territory where the customer resides, it is his duty to furnish regular reports to his principal, both with regard to market conditions and to the standing of individual customers. The buying agent may be commissioned to accept goods in behalf of his principals, to render payment for same, to make claims for defective goods, shortage, etc. The selling agent in some cases may also accept goods and pass them on to customers, receive payments in behalf of his principal and represent him in case of litigation.

The *traveling salesman* is an actual employee of his principal, generally limited to the representation of one firm, unless

several firms in non-competing lines combine in appointing one traveling salesman.

6. *Brokers and Auctioneers.*

Our consideration of the functions of various independent and semi-independent agencies in the organization of general commerce is concluded with a brief review of the functions of *brokers* and *auctioneers.*

A broker is a middleman who mediates the conclusion of contracts between two parties without maintaining a permanent contractual relation to either, or without being the agent of either. There are varieties of brokers in respect to the subject of their activity: there are commodity brokers, such as cotton, coffee, textiles, chemicals, etc., and brokers specializing in produce or in manufactured goods of various kinds; there are bill and exchange brokers, freight brokers, insurance brokers, ship brokers.

Theoretically it is not the original function of a broker to conclude contracts, but merely to bring two parties together and to notify either of the other party's desire to conclude a contract. Commercial usages, and in many countries official regulations govern the activity of brokers. The broker is concerned merely in individual transactions and receives his remuneration in the shape of a *brokerage,* but he bears his own expenses. In the United States the activity of the broker is principally limited to exchange and banking transactions and to produce. Individual importers may have a variety of produce to dispose of, which may make it necessary to make such offers to a number of prospective customers, and it is the business of brokers to be familiar with offerings and demands in their territory; they generally have an established clientele, while neither the importer nor the prospective buyer may have the necessary knowledge or the time to canvass the market.

The auctioneer, as the name implies, concludes selling contracts on the occasion of auctions. Far more frequently than in the United States, produce of various kinds is disposed of by means of auctions in European countries and in many foreign sales centers.

CHAPTER IV.

The Organization of International Commerce.

General Remarks.

In considering the organization of international commerce the plan is pursued of treating the organization of the export trade in the exporting country, the commercial connections between the exporting country and the importing country, and the organization in the importing country. The organization of the import trade is treated in exactly the same manner.

It must not be understood, however, that the international exchange of merchandise is throughout considered first from the viewpoint of the shipping, and then from that of the receiving country. Such a procedure would be entirely too cumbersome, and moreover would make it very difficult to demonstrate and to realize the characteristics of international commerce.

The differentiation between the export and the import trade is made by accepting certain countries, such as United States and the manufacturing countries of Western Europe, as exporting countries, and the goods shipped from those countries to markets purchasing the bulk of their manufactured goods from abroad as exports; whereas goods imported into United States and into Western Europe from these latter markets, being chiefly natural products, are considered as imports, and the organization of the import trade is then reviewed along the same lines as the organization of the export trade.

This gives us then the following schematic outline of study:

I. The Organization of the Export Trade.
   - A. *The organization in the exporting country.*
   - B. *The commercial connections between the exporting and the importing country.*
   - C. *The organization in the importing country.*

(Illustrating exports of manufactured goods from exporting countries such as United States, Great Britain, Belgium, Ger-

many, etc., to South America, China, Japan, India and other chiefly importing markets.)

II. The Organization of the Import Trade.

A. *The organization in the exporting country.*

B. *The commercial connections between the exporting and the importing country.*

C. *The organization in the importing country.*

(Illustrating imports into the United States, Great Britain, Belgium, Germany from South America, India, China and other countries shipping natural products to manufacturing countries.)

I. The Organization of the Export Trade.

A. The organization in the exporting country.

1. *Exporters, Commission Merchants and Agents.*

The *exporter* in the widest sense of the term furnishes goods, or causes goods to be furnished, which are shipped out of the country in which he carries on his business; he acts either for his own account or for the account of another; and his activity involves rights and obligations towards third parties located abroad, in the country of import, or an account relationship with his own branch establishment located abroad, in the country of import.

In this sense, if goods are sold and delivered in the home country to an attorney of a foreign customer, and are paid for in the home country, the transaction involved is not properly an export transaction, even if the goods are eventually shipped out of the country, for no rights or obligations to parties located in the direction of export are involved.

More strictly speaking an exporter is a merchant who cultivates the sale and the shipping of the products of his home land to foreign countries either exclusively or as a prominent part of his business.

Among exporters we must distinguish two types:—the first type includes producers or wholesale merchants exporting some special product or class of products, but doing largely a do-

mestic business and catering to export as a side issue. Exporters of this type ordinarily sell in those markets where the business does not offer much greater difficulties than the home market. The second type includes merchants doing an export business exclusively, and with whom the class of goods handled is a secondary consideration. Such exporters, if their market requires fertilizers, will sell fertilizers; or they will sell machinery, or oils, or chemicals, or textiles, or iron and steel, or ammunition. The exporter of the first type, if he is a wholesaler, generally keeps a stock of goods from which he sells, or if he is a producer, will either sell from stock or manufacture goods to order. The exporter of the second type as a rule keeps no stock; the variety of goods handled by him precludes that, though he may keep stocks abroad, where he may have developed a constant trade in some staple articles. His legitimate field of activity is in the markets where the general run of manufacturers and wholesalers find marketing conditions too difficult for independent operations. Because of the range of products handled by him, the exporter of the second type described here, is termed in United States a *general exporter.* In Great Britain he is called a *merchant shipper.*

The producer whose goods are exported may carry on his export business through his own organization, which method of doing busines is known as *direct exporting,* or through middlemen or commission merchants, which is termed *indirect exporting.*

Among producers a well-established manufacturer, with a permanent and profitable home-trade and adequate working capital, is best fitted to do direct exporting.

We may roughly divide the field of export into a few groups: the Western European group; the Near East; Russia; Canada; Mexico; West Indies and Central America; South America; the Far East, with Dutch East Indies and India; Australia and Africa.

It is rational to suppose that in his attempts to do a direct export business the manufacturer will first turn his attention to markets close at hand,—the American manufacturer to Canada, Mexico, Cuba; the German, French, Belgian, British manufac-

turers to European countries, then the Near East, North Africa, etc.

The American manufacturers are familiar with the Canadian market; connections between United States and Canada are very good; moreover, the language spoken in both countries is the same; as the result, the Canadian business, but for the obstacle of the customs tariffs which has induced many American manufacturers to establish branches in Canada, is considered by American manufacturers almost in the nature of a domestic business. The need of middlemen for doing business with Canada is not greatly felt.

Similarly European manufacturers treat the Western European market. They can cultivate it with only a little more trouble than the home market.

The more distant the market, the more difficult the marketing conditions, the more readily does the manufacturer turn to the mediation of export merchants. But as their export sales in a particular foreign market develop, manufacturers lose their terror of distance and of difference in language and conditions, and if their output warrants it, they commence to work even with oversea markets by means of their own selling organization.

The opening of branches abroad, the employment of regularly despatched traveling salesmen to foreign markets will be found a paying proposition only for large manufacturers. Small manufacturers will find the outlay prohibitive as compared with results obtained. There is no reason, however, why several smaller manufacturers in non-competing lines cannot combine and instal an export organization equitably promoting their interests and minimizing the expense for each participant, provided the interests of each are adequately promoted.

Modern methods of publicity, through the use of export journals and circularization, as well as suitable agency arrangements, may also build up an appreciable volume of direct trade for smaller manufacturers at a very slight expense, if good judgment is used.

Certain products are preferably sold through exporters; these are agricultural produce, cattle, timber, cooperage, etc.

Manufactured goods are more suitable for the direct exporting by producers.

General exporters seldom cultivate markets with which manufacturers can do a direct business without much trouble. So we find few general exporters in the United States who make a specialty of Canada or Great Britain; few general exporters in Germany who cultivate European markets.

General exporters seldom limit themselves to special classes of merchandise. But the specialization tendency in business relations between exporting and importing countries has led to the creation of exporting firms specializing in machinery and engineering supplies, in textiles or chemicals or foodstuffs, and even in many general export houses the necessity of technical knowledge has led to the creation of departments devoted to special selected lines in addition to departments to which the care of special markets is assigned.

General exporters, as stated above, do not as a rule exclude any merchandise from the scope of their activity. Handling a wide range of products they are in a position to cultivate intensely markets in which a single line would not produce a sufficient turnover, and they are therefore willing to take on new and untried lines. Their activity presupposes rather a knowledge of markets than of classes of merchandise. But general exporters frequently limit their operations to special markets in which they have an efficient sales organization or suitable connections, though a few of them have developed into the status of world merchants, covering practically the entire world with their organization.

The general exporter may be either a merchant for own account or a commission merchant, or a combination of both. Most export merchants are substantially commission merchants, being principally commissioned to buy. They receive and solicit orders from customers abroad to buy goods of the exporting country. Even where they have branches of their own abroad, the activity of these branches is in the direction of procuring orders to buy. The acceptance of such orders, even if business is done for the account of the exporter, implies a commission to purchase goods.

On the other hand exporters often are also entrusted by

producers with the task of selling their goods in specified foreign markets. It is for this reason that general exporters, even where they buy and sell for their own account, are also called *export commission merchants.*

Where the general exporter buys and sells for his own account, the acceptance of an order to buy goods is a contract for delivery of goods. In order to eliminate risk in the matter of prices, the exporter can accept such orders only when he has firm quotations from producers. He therefore sells first and buys afterwards, on the basis of quotations supplied him by a producer. But when he maintains branch establishments of his own abroad and has a current trade in certain staple articles, he may also purchase goods first and ship them to his branch to be sold, without previous specific orders from customers. This is done particularly in cases where his branch establishment abroad is also doing a retail business, or where that branch establishment deals with retailers who like to buy from stock, not wishing to place their purchases on the regular import conditions.

Carrying on business for his own account, the general exporter is in a position to utilize to the fullest extent his knowledge of market conditions and his commercial activity for his own profit. Considering the great risks the exporter runs in financing foreign business with oversea markets and the unusual difficulties in dealing with certain markets, it is clear that the exporter has the desire to secure greater earnings than offered by the usual purchasing commission of 5%. On the basis of this commission he could increase his earnings only through improper acts, such as securing discounts from the producer which do not appear on the invoice. To secure greater earnings legitimately, he must appear towards the customer who gives him an order as a merchant for his own account, though this does not essentially alter the fact that this business is a commission business, he being commissioned by his customer to buy. For this reason the tendency among commission merchants is always in the direction of operating for their own account.

Another reason why the general exporter prefers to act for his own account rather than strictly on commission basis is that frequently the customer desires to receive a quotation for goods as delivered and in the currency of his own country and the ex-

porter must secure himself against fluctuations of exchange and in speculative items such as freight and insurance. This he can do by quoting his own prices which include allowances for such fluctuations, but in the strict commission business on the basis of a percentage commission fee he is not authorized to make arbitrary allowances for such items.

When not acting for his own account, the exporter is a buying agent on commission basis. His remuneration then consists of a buying commission, which is a percentage fee. In order to exercise control over his activity, his oversea principals, particularly European firms located overseas, demand from him paid original invoices, and in the case of current business the right to examine his books.

A difference in his relations to his principals who commission him to purchase goods is to be noted according to whether the commission is limited to the purchase of single lots of goods or involves a standing account current relationship, on the basis of a credit opened in favor of the commission merchant. He is in the latter case assured the business of his principal, in fact it is frequently customary for a foreign firm to bind itself contractually to place its purchases in the exporting country solely through a specified general exporter.

The exporter may also act as commissioned to sell. He may either accept goods on consignment from producers or attempt to secure sales for his principals. The first is done in the case of general exporters who have branches of their own abroad, and while that method has much to commend it, because the buyer abroad can obtain immediate possession of the goods, American manufacturers do not favor a consignment business, and it is usual only in staple articles for which there is a current demand. Or the exporter may receive samples and catalogs and solicit business abroad for a special product for which he receives a selling commission from the producer. The general exporter is not as a rule keen to enter into such an arrangement with a producer. He is willing to do so only in the case of important manufacturers, whose business he is anxious to secure, but who desire to control the prices obtained from the buyers abroad.

Occasionally the export commission merchant receives a commission both from the seller and the buyer.

It is the business of the general exporter not only to negotiate business transactions with customers abroad, but also to finance them. For this reason he pays the producer generally within thirty days, or against documents, but grants to the buyer the credit terms required by him, and as a commission merchant he undertakes the so-called *del credere* or guarantee of the account.

For this reason the agency feature, whether as seller or as buyer, does not generally enter into the activity of the general exporter. Occasionally, indeed, will a general exporter undertake a representation, but firms acting exclusively on the basis of agency arrangements are considered as *export agents,* and their activity is reviewed elsewhere.

A seeming resemblance to the functions of a broker is lent to the activity of a general exporter when he is visited by his foreign customer and introduces him to manufacturers and business houses. This is done, however, on the understanding that if business results the exporter will appear either as export merchant or as commission merchant in the transaction, particularly as the buyer is likely to depart before the order is shipped, and the services of the exporter are required for the financing of the deal.

The exporter is not limited in his activity to the products of his own country, though he will naturally give preference to them. It is a mistake, for this reason to grant an agency or representation to an exporter of a foreign nationality. It had been the practice of American manufacturers to grant their representations to exporters in Hamburg or Copenhagen, and to notify, for instance, inquirers in Russia accordingly.

The exporter in his relation to the producer appears either as buyer for own account or as a seller in the producer's name, which is in effect a constructive agency. He may after a number of transactions enter into an exclusive agency arrangement with the producer with regard to a specified market, so that the producer will agree not to sell to that market excepting through the exporter, or to sell at certain higher prices which protect the exporter, or to sell only to importers there and not to the

native trade. The advantage of this to the producer is that as an exclusive agent for a territory in which he has an efficient selling organization the exporter will take special pains in introducing his goods, and that since his goods are not offered by several sources, higher price levels may be well maintained.

The exporter buys his goods as far as possible direct from the producer, excepting where the advantages of direct purchasing are out of proportion to the difficulties. This is so in the case of agricultural produce, or where there are several links between the producer and the exporter necessary to put a product into exportable shape, or when a producer does not distribute his products excepting through a middleman. In his endeavor to buy direct the exporter sometimes contracts for the entire output of mills.

The intervention of manufacturers' agents is not popular with the exporters because it adds to the cost of goods. But it is customary for many manufacturers and producers located at a distance from the export centers to maintain there agents or export representatives, and since it simplifies the routine to deal with them, the advantage thus gained is considered as outweighing the disadvantage of a possible slight increase in the cost of handling goods.

Agents whose business it is to cultivate the trade of the exporters in an export center are known as export agents or representatives. Manufacturers who maintain a selling organization for export in the export center cultivate the trade of the exporters through their city department. The activity of export agents found its greatest development in Hamburg. These agents sometimes represented a considerable number of manufacturers and maintained large sample rooms which attracted visits from buyers all over the world.

The exporter requires for his activity detailed catalogs and samples, which he sends to his customers or submits to them through his traveling salesmen. The customer sends his orders on the basis of samples, or he may send orders, indicating the price he is willing to pay, but not specifying the brand of goods, though indicating the quality. The exporter must then shop among manufacturers until he procures a quotation for the ar-

ticle desired which allows him to supply it to his customer with a reasonable profit.

The volume of business and the capitalization of a general exporter's business cover the widest range of variety. Starting with a small enterprise dependent upon credit favors from manufacturers, we have every gradation to the export and import house of the foremost rank, financing business of any extent, engaging even in banking operations and granting loans to foreign governments. The combination of the export with the import business is a frequent one. If a general exporting house maintains branches or settlements abroad it is reasonable to suppose that it will aim to utilize them in every direction and thus will not only sell in that territory but will also buy native produce for which there may be a demand in the home country.

But even without such branches and settlements abroad there may be occasions which lead the general exporter to assume the role of an importer, though as a secondary function. He may wish to make use of his intimate knowledge of and connections with foreign markets in order to profit also from the import of foreign produce, or he may receive from his customer consignments of foreign produce in full or in part payment for goods sent him.

This is frequent in trade with Central and South America, or in the trade of European exporters with West Africa. Since such merchandise remittances offer the exporter an additional source of profit, they are popular with many exporters.

When doing business for his own account with markets where he maintains his own branch establishment, and where the native traders are not in a position to do a direct business with European and American manufacturers, the exporter has little fear of being eliminated by the producer or by the customer. But outside of that he faces the grave danger of either party desiring to profit by his elimination,—the manufacturer, for the sake of securing higher prices or in the hope of extending his output in a given market, the buyer, for the sake of securing lower prices. The tendency to eliminate the exporter is strongest in the case of large manufacturers.

American manufacturers particularly have striven to do an increasing direct export trade. British and French manufac-

turers have been loth to break away from the exporter. Again the nationality of the buyer is a factor in the development of this tendency. The higher the development of the country, the more apt are the buyers to seek the manufacturer direct. Finally the extent to which the buyer requires the granting of credit on long terms determines the buyer's loyalty to the exporter. The manufacturer cannot grant long term credits and is in such cases dependent upon the services of the exporter. This is the reason why Central and South American customers have so far shown so little tendency to emancipate themselves from the services of the exporter.

The exporter, for his part, at least in former days, took care to protect himself. He endeavored to hide from his customer the name of the producer. He endeavored to conceal the name and address of his customer from the manufacturer. Therefore he frequently insisted on the so-called neutral make-up of goods, by which is meant the removal of any indication of the source of production, the adoption of special brands prepared for the individual exporter, the preparation of special "neutral" catalogs and samples, the elimination of the name of the consignee from shipments, for which arbitrary markings and symbols are substituted.

But this tendency on the part of the exporters is fast disappearing in view of the fact that certain makes of manufactured goods have become very well known in the export field and that the publicity efforts of manufacturers stimulate the demand for specific makes. Far from desiring to conceal from their customers the origin of manufactured goods which they sell to them, the exporters may be specifically instructed by them to procure particular makes.

In considering the organization of international commerce we have throughout striven to cling to historically developed types and terms which have attained a definite meaning in the world trade. Due to the peculiar course which the development of foreign trade took in the United States—first, the aloofness of many producers to foreign trading and the pioneer work of the commission merchant, then an increased interest and apprenticeship stage, then a marvelous expansion which also attracted individuals and enterprises from the most inefficient to

the most efficient, and finally the extraordinary spurt of intense activity during the world war which gave birth to further varieties of export ventures—there has come about a most deplorable confusion in the United States in the use of such terms as export commission house, exporter and importer, export merchant, export agent. Before identifying such enterprises with the definitions and with the description of their functions as given in this volume, it is necessary to investigate in each individual instance to what extent any of the above "labels" are properly used.

Walter F. Wyman, the noted writer on export topics, gives in the *"World's Markets"* a very accurate summary of the types of export agents according to American usage, of which we may quote the following:

A simple definition of the export agent is "one who acts in any selling capacity for the exporter." This definition has the virtue of emphasizing the *selling* function of the agent and is broad enough to include almost all of the many types of agents whose variety of activities perplexes both the novice and veteran in exporting.

The first major division of types is based on the location of the agent. For the export agent may, and often does, have his headquarters—if not his sole residence—in the country of the exporter. Agents of this type include:

1. *The American selling agency*
2. *The export company*
3. *The export house*

The agent abroad can be similarly classified:

1. *The resident combination salesman*
2. *The manufacturers' representative*
3. *The general importer*
4. *The wholesaler*
5. *The wholesaler and retailer*
6. *The retailer*
7. *The consumer*

The second major division is based on the relation of the agent to the exporter. This division is one which contains but three classes:

1. *Those who sell for the account of the exporter*

2. *Those who buy from the exporter and resell*
3. *Those who buy but do not resell*

It is obvious that each agent must be included in both of these major divisions. The export house in the United States supplies the most common example; for its residence is in the country of the seller and it buys from the exporter for purposes of re-sale outside the United States. It must be remembered that there is no agency relation, however, unless there are exclusive territorial rights involved. Otherwise the transaction is simply between buyer and seller.

It is undeniable that there is a great confusion in export circles in regard to the desirability or non-desirability of agents. The greater part of this confusion is due to the failure of many to recognize the existence of the second major division.

To make the distinction between the divisions entirely clear, it is necessary to consider the first group as representative of the *selling staff* of the exporter and to consider the second group as representative of the *customer* of the exporter.

To illustrate: let us assume that in Lima, Peru, there is an individual named John Jones. He makes his living by selling American-made goods to the merchants of Lima. He does not carry stocks of merchandise but merely solicits orders for direct shipment from the manufacturer to individual merchants. These merchants are billed direct by the manufacturers. John Jones limits his activities to the sale of the products of six American manufacturers. These pay him commissions on the sales which he makes and also on any other shipments which they make to Lima.

John Jones is clearly the agent of these six American manufacturers. He is "one who acts in a selling capacity for the exporter." If we analyze his relation to the exporter it will be seen that in reality he is a resident combination salesman. He is an individual selling agency resident in the country of his customers.

To illustrate further: Henry Smith has an office on Broadway, New York City. He specializes on sales in China. He represents a dozen American manufacturers and has established connections with several scores of merchants in China, who usually accept his advice in connection with their purchases of

American goods. He has a carefully built up mailing list containing the names of hundreds of native and European firms in China. He advertises in China the products of the American manufacturers whom he represents. He solicits orders for his principals. He carries no stocks and merely refers the orders he recives to the manufacturers. On analysis it will be seen that Henry Smith is a combination export sales manager resident in the country of the manufacturer. He is an export agent, but purely an export selling agent.

A single example will differentiate these two types of agent —the combination export salesman resident abroad and the combination export sales manager resident in the United States— from the agent of the older type. Enrique Gonzales y Cia., of Valparaiso, Chile, are wholesalers. They specialize in the handling of branded merchandise. They do not confine their importation to products of any one country, but they do confine their importations to one maker in each product which they handle. Let us assume that they are agents for Fownes gloves, Pinaud's toilet preparations, an Italian olive oil, Gillette safety razors and Regal shoes. They do not handle competitive lines. They offer, in return for exclusive rights for the products which they handle, a guaranteed volume of purchases each year. They buy for their own account, and sell not only to retailers but also, in some cases, to other wholesalers at a nominal profit. The manufacturers they represent have only one account in Chile— the agents themselves—and all goods are shipped and billed direct to them.

This example clearly differentiates the agent who buys for his own account from the agent whose function is solely that of selling. For purpose of differentiation it would be well for all interested in exporting to term one the "customer-agent" and the other the "selling agent."

It is well to analyze for a moment the status of the export house in the United States in the agency field. In theory, and often in practice, the export house is the exact reverse of the export combination salesman resident abroad. For the function of the export house in many cases is that of a *buyer* resident in the United States in the interest of the foreign merchant. This is clearly proved by the fact that the export house charges its

merchant customers for its services as a buyer; this charge being quite frequently two and one-half per cent. of the invoice price.

Export houses usually specialize either on certain products, or on certain territories, or on certain products in certain territories. From their very different knowledge of the needs and wants, tastes and whims of the markets they serve, they are often in a position which makes them desirous of controlling some manufacturer's products in certain territories. They offer, in exchange for an exclusive arrangement, a guaranteed volume of sales and the certainty of immediate distribution. But it is only fair to note that there is a confusion of relations brought into being by their acceptance of an agency. With some few non-competitive products—products which are absolutely unique—the export house can retain its position as buying representative for foreign merchants. But with the majority of products, the acceptance of an agency by the export house bars its own clients from a free and full choice of competitive articles.

With the entrance into exclusive arrangements with the American manufacturer, the obligations of the export house become divided between maker and merchant. It is not to be gainsaid that even in the face of the manifest anomaly of such dual relations, there are many instances which prove that both parties have been well served.

A more common case of the "customer agent" than that of the Enrique Gonzales y Cia. example is the agent who purchases for his own account for re-sale but who also permits direct sales by the American manufacturer in his territory, and who receives both price protection and a commission on such direct sales. Such a plan promises mutual advantages. From the manufacturer's standpoint it diffuses the credit risk by multiplying the number of his customers in a given country. It permits the manufacturer to have direct relations with firms of such importance that they might refuse to consider purchasing through an intermediary. It makes possible sales to those who from prejudice would decline to buy from the "customer agent."

The "customer agent" appreciates the advantages to him of the sales, direct from the manufacturer, to these three groups. First of all, they enable him to receive commissions without the

investment of his capital in undesirably large stocks. Then they bring in commission from transactions with importers who are equal to himself in size and importance and with whom no other lines he may be in direct competition. Again, it makes possible commissions on sales which come from firms with whom he is not on friendly terms. Above all, from the agent's standpoint, it forces the manufacturer to greater sales effort in order to secure and develop these direct accounts and thus gives him profits he could neither afford to seek nor expect success in seeking. Finally, the alert agent realizes that in many lines the greater the direct distribution, the greater the demand from consumers and the lower the sales expenses on his own sales to his own customers.

In dividing into the two major divisions all agency types, we pointed out that there were three sub-divisions resident in the United States.

1. *The American selling agency*
2. *The export company*
3. *The export house*

Of these we have so far examined only the export house and rather roughly outlined the selling agency of the type we termed the "combination export sales manager resident in the United States." There remains the export company which buys for its own account. The export company is thus clearly differentiated from the American selling agency which performs only the selling function, and from the export house which does not buy for its own account but which is the buyer for the foreign merchant and merely carries out his wishes and finances the transaction.

The export company is in reality an exporter who does not manufacture the goods it sells but which assumes all other funtions of the manufacturing exporter. It carries stocks both at home and abroad for its own account. It develops its own customers and appoints its own agents, and often has its own export travelers. It is usual for the export company to specialize either on certain territories or certain products, and to seek from manufacturers exclusive agency connections. Not infrequently an export company will market the entire production of a mill or factory or contract for the surplus of a mill or factory over

its domestic requirements. When it actually owns mills and factories outright or interests in mills or factories it becomes to that extent and for such product or products a manufacturing exporter. It may thus be in part a manufacturing exporter while simultaneously exercising the function of an export company for other products.

We classified the agent resident abroad thus:

1. *The resident combination salesman*
2. *The manufacturers' representative*
3. *The general importer*
4. *The wholesaler*
5. *The wholesaler and retailer*
6. *The retailer*
7. *The consumer*

Of these seven classifications we have used for illustrations the first and fourth--the resident combination salesman and the wholesaler. We can ignore the export company resident abroad; for the functions of such a company are practically identical with those of the export selling company resident in the United States.

The manufacturers' representative is in many cases identical with the resident combination salesman. But in a growing number of cases the manufacutrers' representative is less a traveler and more of an employer of travelers. He is more and more opening sales and display rooms and more and more carrying stocks, limited perhaps in variety and containing only articles in greatest demand, but purchased outright and carried more for accommodation and rapid development of sales than for profit.

The general importer, as an agent, is one of the oldest types and one which is declining rather than advancing in favor. Three or four decades ago it was not uncommon for a single general importer to be the agent for agricultural machinery, for perfumery and for bulk food products. No line was too large and none too small for him to handle as agent. His strength was in his personal reputation and his knowledge of the market which he served. He was, in many markets, as much a representative of the United States or of England as the consular officials, and he was so regarded by the merchants. But with the increased activities of the export houses and of the direct

representatives of manufacturing exporters, that era passed.

The wholesaler and retailer type of agent was in great vogue a decade or two ago. The newly fledged manufacturing exporter recognized this type of agent as well worth cultivating. The wholesaler and retailer bought outright, gave at once distribution (in his home city) to the consumer, and through his wholesale activities gave further distribution to outlying districts. Almost invariably such agents were strong financially, enjoyed a good reputation and brought the products they favored into quick, if limited, demand. In some markets these wholesale and retail agent outlets actually sold other wholesalers who were willing to concede a small profit to the agent in return for the convenience of making use of the stock which he carried.

The great drawback to the wholesale and retail agent came in territories where the agent, while active and able, was not as widely or as well liked by retailers as the out and out wholesaler who was in no way a competitor. Agencies granted the combined wholesaler and retailer in such circumstances very definitely limited distribution and made it quite possible for a later arrival in the field to ignore all agency plans, sell all good wholesale outlets and easily secure a distribution, well balanced and widespread, impossible to the product restricted to a limited outlet. While these direct non-agency efforts were high in first cost, they very generally proved profitable over a long term of years. Because of the greater number of retail outlets obtained through sales to all wholesalers (except the competitive agent) general advertising to consumers was not wasteful and could be effectively used.

In the lesser markets of the world it is often found that the exclusive representation of the leading retailer is more profitable than all possible sales which would exclude the leading retailer. In order that the leading retailer might have a real incentive to handle a manufacturer's product to the exclusion of all others, some far-sighted manufacturing exporters made a practice of sacrificing the sales possibilities of the lesser outlets and granting the exclusive selling rights to their chosen retailer, and made no other efforts, direct or through their agent, to secure sales to other retailers.

On the surface, it is absurd to consider a consumer as an

exclusive agent. The title "agent" is indeed a misnomer in connection with consumer, unless the "consumer" sell other consumers—in which case he becomes in reality a retailer. But a maker of sugar mill machinery might well be content with the entire equipment of the larger of two sugar centrals and grant the exclusive rights *of use* to such an *"agent."* This is by no means an unknown arrangement. When it is based on careful study of conditions and the agreement covers a long period of years, it is usually found to have mutual advantages in exchaning the greater purchasing power of the "agent" for the exclusive features of the products of the manufacturer. Dairy machinery has been marketed in many parts of the world on the equivalent of a "consumer agency" basis.

It is not at all unusual for a commission export salesman resident abroad to assume only for certain lines several other functions. He may, for example, in order to introduce a technical line, employ a skilled assistant, carry stocks of parts and do repairs. He may also see opportunity for profit beyond mere commissions and buy outright, turning over his complete purchase on arrival and re-billing to his customers. Similarly, an export selling company resident in the United States may not hesitate to depart from its general policy and be in effect a salesman, buying no goods and acting merely in the capacity of professional introducer of maker to merchant. This is true in markets in which the selling company has no direct connections and in which it does not desire to act in its broadest capacity.

Because of these variants from the regular channels of operation of the several types, it is incumbent on the exporter to be certain not only that he is cognizant of the usual method employed by the type of agency which he is considering, but also that he knows precisely the form of activity which the prospective agent will use if intrusted with the agency for the manufacturer's products. Hardly any two American selling agencies operate along the same lines. It is safe to say that no two export companies employ exactly the same general tactics; while among the export houses which depart from the rôle of buyers for foreign merchants there is absolutely no uniformity of practice.

Even within any one agent's own policy there will be found

myriads of sub-policies. This is practically true in connection with agencies which are expanding their scope of action. An export company may well have branch houses in Buenos Aires, London and Paris and yet only have correspondence relations with Rio de Janeiro, Belfast and Bordeaux. It may send its own trained travelers to Cuba and Mexico and yet have second rate sub-agents (and these only retailers) in Costa Rica and Panama.—(Walter F. Wyman in *"The World's Markets."*)

2. *Advantages and Disadvantages of Indirect and Direct Exporting.*

We may now consider the advantages and the disadvantages of indirect and of direct exporting from the point of view of the manufacturer.

Among the advantages of doing an export business through commission and export merchants the manufacturer may count the following:

a) It simplifies the manufacturer's business not to carry on the export of his goods through his own organization. The commission house employs buying, shipping, insuring, financing experts and traveling salesmen, and the manufacturer ordinarily cannot duplicate such an organization. He can devote his attention to the technical part of his business more fully, if freed from the engrossing business of merchandizing abroad.

b) The mediation of the export house eases the financial burden of the manufacturer, inasmuch as he receives his payment from an exporter very much on the same terms as from his domestic trade, whereas the exporter assumes the risk and the burden of granting necessary credits to the foreign buyer, which in many markets is an important consideration.

c) The mediation of the exporter with his guarantee of accounts (del credere) and the relative ease with which the credit standing of the exporter may be ascertained as compared with that of the foreign customer lessens the financial risk of the manufacturer involved in exporting .

d) The exporter handling a variety of products can cover a market more cheaply for special products, lessening the overhead expense. The exporters receive more inquiries for products

than an individual manufacturer, due to the intense canvassing of foreign markets and closer connections with the foreign customers. The comparative cheapness of his organization permits the exporter to extend it, opening new branches, undertaking selling journeys, employing better trained salesmen and representatives. His local connections lessen the risk of selling to customers of poor standing. His losses are proportionately smaller, due to the wide range of his business transactions in a given market, than would be in the case of a manufacturer making occasional sales in one specific class of products in a given market. Export is the exporter's sole business, while it is a secondary consideration with the manufacturer. The exporter can afford to enter into more risky and profitable transactions due to his connections and to meet the credit requirements of customers more readily.

Indirect exporting, however, has its own disadvantages. The goods reach the customer at a higher price, due to the middleman's intervention, which must affect their sales prospects or the manufacturer's profits. The difference in price is not fully equivalent, however, to the exporter's profit, because his selling expenses are lower and his losses proportionately less. The exporter cannot be expected to interest himself in the promotion of the sale of a specific make or brand of goods. He is more or less independent. He may not take the trouble to push a new article.

The exporter cannot have the technical knowledge of every line handled by him, nor can he therefore always give such information to the manufacturer which will enable him to meet competition.

The manufacturer can protect his interests in this connection by sending his employees to study special markets, by utilizing means of publicity and by compelling the exporter to sell his goods under his established trade-mark or name.

Turning to a consideration of the advantages of direct exporting, we find that the principal advantage of direct exporting is in the fact that here we have the manufacturer's own sales organization devoting itself exclusively to the promotion of the sale of the manufacturer's products. His sales organization is generally composed of persons having a thorough tech-

nical knowledge of his line. He can study and employ the best methods for marketing his products in special markets. The elimination of the exporter's profit is a minor advantage.

The disadvantages of direct exporting are found in the dissipation of effort implied in the establishment of a special sales organization for export, the diverting of capital from production to merchandizing, the inadequate knowledge of special markets, the necessity of an attitude of reserve to the question of credit, which affects the sale of the product in many markets.

Economically inadvisable is the creation of a special sales organization for foreign trade, with branches, traveling salesmen, representatives, etc., where the results which the manufacturer may obtain thereby cannot cover the cost. Several manufacturers in non-competing lines may combine to overcome this phase. But the advantages of a fully independent sales organization cannot be met by such an arrangement. And it is difficult to have a combined organization which would include persons having a thorough technical knowledge of each line.

It is impossible to form a decision applicable to all cases as to the question whether it is better to sell direct or indirect. All of the considerations mentioned in the foregoing must be fully weighed, each case must be decided on its merits. It may be, however, definitely stated that the existence of an independent export merchant class is a basic condition for the success of an industry dependent upon export. For this reason manufacturers in whose case the advantages of trading through exporters outweigh the disadvantages must not begrudge the profits of exporters. The introduction of a manufactured product in a foreign market is an expensive and laborious undertaking, requiring the expenditure of money and effort, which the exporter assumes willingly in the hope that he will reap the fruits of his activity in a permanent connection with the manufacturer.

If after the exporter has introduced a manufactured product in a certain market the manufacturer attempts to go around him and to enter into direct relations with the exporter's customers, he acts disloyally. If the exporter has attained success with the assistance of the manufacturer who has given him samples and aided him with low quotations and then exploits

the manufacturers' competitors, he acts as disloyally. The improper competition between manufacturers and exporters in specific markets may have a very detrimental effect upon business with a given market.

The manufacturer in his export activity will do well to study the adaptability of his product for each specific market, and weigh all the pros and cons with regard to direct and indirect export trading and to adopt such a policy for each market as is dictated by circumstances. He will find that for some products and markets the direct trading policy will promise the greatest prospect of success, and for others the mediation of general export merchants.

In considering the pros and cons of direct and indirect exporting, we must not overlook a consideration of the advantages and disadvantages of buying through export commissions merchants from the point of view of oversea customers.

The principal advantage for the oversea customer in buying through an export commission merchant lies in his obtaining by such means the services of an unofficial purchasing agent in the exporting country. Importers located overseas appreciate this service. Their purchasing is simplified and put on an economic basis. The item of cabling expense alone when dealing through one purchasing source affords a great saving. The more important advantage is in the fact that an importer located abroad is not in a position to find the most advantageous sources of supply in the exporting country. The export commission merchant can do his "shopping" for him among competing manufacturers. He is in a position to buy more cheaply because he offers the manufacturer better terms of payment than the oversea buyer can as a rule offer. Of course this is an advantage only if the saving effected exceeds the exporter's commission or profit. In the matter of looking after shipments the exporter also protects the interests of the oversea customer. The exporter's financing services are of great value to the oversea customer. Finally he is able to "bunch" into one shipment a number of smaller requirements by utilizing the services of the exporter, whereas placing orders for several smaller lots of goods direct with manufacturers renders it impossible for the oversea cus-

tomer either to obtain satisfactory quotations or economic shipments.

Among the disadvantages of doing business through an export merchant from the point of view of the oversea customer must be mentioned the increased cost of goods through the additional link, which is an important item in those instances when the export merchant is not in a position to buy an article more cheaply than the oversea customer might buy direct; the risk of bias on the part of the export merchant who may procure goods from a less desirable source because this may be a matter of personal advantage; the lack of technical knowledge on the part of the export merchant, and possible dishonesty, improper tactics, etc., in the case of small irresponsible concerns. On the whole these disadvantages—outside of the first named—may be eliminated by the exercise of caution and the use of ordinary commercial safeguards in the selection of such a connection.

The points at issue between American manufacturers and exporters have been frequently aired at foreign trade conventions. The debt of American manufacturers to the enterprise of American exporters in the formative stage of American exporting cannot be exaggerated. The desire of American manufacturers to do a direct business, wherever such a course is promising of success, is only natural, however. There is no necessity for a vital conflict between this attitude on the part of the manufacturers and the indubitable importance of the functions of the export merchants and their assured position in the economy of international commerce wherever they supply a need. The position of the exporter was well expressed by Wm. H. Knox, a speaker at the Convention of the National Foreign Trade Council in Pittsburgh (1917):

"The present day function of the exporter and foreign commission merchant seems to be, in brief, highly specialized expert service, comprising salesmanship, knowledge of shipping, marine and war risk insurance, credit information, banking, foreign exchange, and every detail required for the efficient bringing together of producer and consumer wherever located in the foreign field, and when it is remembered that by means of quick cable service and efficient organization, South Africa, New Zealand and other remote parts of the world are on an average

within one hour's time of New York City, there would seem to be some good reasons for assuming that the properly equipped export house is in a position to render most valuable service to any American manufacturer desirous of obtaining a foreign market for his products. Some necessary distinction should be made between the export merchant who sells to the foreign trade, as a merchant, and the commission merchant who may place orders with American manufacturers for foreign account, and receiving from buyers a commission for the handling of such business, or who sells to the foreign buyer for manufacfacturer's account with commissions on such sales paid by the manufacturer. These three methods are properly the particular business of those entering into such arrangements and they need not be discussed at this time, but we might mention that the larger lines of great American staples are being handled to-day on the first-named basis. From time to time criticism, more or less justified, may be made of exporters' business methods, but we have usually found that the cause for such criticism originates through misunderstandings readily adjusted, when both parties to the question can get together and disclose the facts of the difficulty. Something perhaps could be said in criticism of manufacturers and some of their business methods, but as we are not here for any such purpose, it is sufficient to say that mistakes are always possible, and when they occur it should be the good business of both parties to make such connections as required by circumstances, and there is of course always the alternative of the manufacturer placing his interests in other hands, or dealing direct with foreign buyers should this better suit his convenience.

"In conclusion you will permit me to say, that while in some lines of business the exporter might be considered as a middleman, whose services are not required, we think you will find by actual experience that he is in a position to offer the greatest amount of expert service and knowledge in his particular field for less compensation than is being paid in any other line of business activity, and while to some of you he may appear to be an unnecessary evil, the facts at your command, if you chose to thoroughly investigate the best interests of the business you are seeking to develop, would indicate to the contrary."

3. *The Growth and Development of Export Centers.*

An export shipping center is the place from which goods are shipped out of the country in large quantities. An export trading center is the place from which a large export business is conducted. These two terms are not necessarily identical. Liverpool and Antwerp, for instance, are more noted as export shipping than as export trading centers. Iron and steel products may be sold from New York and never pass through New York but be directed from the mill by the shortest route to the point of shipment, which may be Seattle or Mobile. This independence of the exporter from the actual shipping route of the goods permits the exporter to handle not only the products of the industrial territory subservient to the export center where he is located but also far beyond its boundaries.

Apart from the fact that great exporting firms naturally made their original headquarters in prominent export shipping ports, exporters generally establish themselves where they are in the center of a prominent industry capable of producing goods for export, or within a very convenient approach to it, and preferably in large cities where stocks of goods can be conveniently warehoused. The points where railroads have their terminals and goods must be transferred or transshipped are also desirable. Centers of freight forwarding business, particularly ports where exporters doing an import business in addition to their export business can receive shipments from their oversea customers and connections, play also an important part.

In the United States New York City is the premier export shipping and export trading center. Here we have a port serving a large industrial territory, railroad termini, warehouses, the starting point and the destination of many steamship and sailing ship lines. In Cincinnati, Chicago, Saint Louis, we have prominent trading centers. Boston is an export shipping and trading center particularly for the leather trade. San Francisco and Seattle are prominent export shipping centers for the Far East Trade, and here great shipments of Far East produce are also received, and a large export and import trading community has developed in both cities.

In Europe we have an example of an export trading center

which is not an export shipping center in the city of Paris, and before the war Berlin was a case in point.

An export center attains an international importance either because of the quantity and the variety of goods traded in and shipped from there, or from the specialization in that center in certain lines of goods and from serving a special territory. London is the principal export center for certain British colonies. Hamburg used to have the pre-eminence in South and Central American trade. It must yield in this respect to New York as the prospective result of the international commercial changes consequent to the great war.

CHAPTER V.

I. The Organization of the Export Trade (continued).

B. THE COMMERCIAL CONNECTIONS BETWEEN THE EXPORTING AND THE IMPORTING COUNTRY.

1. *Connections Opened Through the Initiative of the Buyer.*

The connection between the exporting and the importing country may be initiated by the buyer or by the seller.

Connections between the exporting and the importing country on the initiative of the buyer may be opened in various ways:

1. Through *buying trips.* 2. Through *buying agents* domiciled in the exporting country. 3. Through *buying branches* or through members of the importing firm taking up residence in the exporting country for the purpose of attending to purchases. 4. Through *correspondence.*

1. Buying trips may be undertaken by the head of the buying firm, by an employee or by an agent undertaking to make purchases for a number of firms. The buyer may be a merchant doing business for his own account or on commission basis. In the latter case his position is very similar to that of a traveling purchasing agent, excepting that he concludes business in his own name.

At the buying point the buyer frequently utilizes the services of export commission merchants or of brokers, who introduce him to the manufacturers and sometimes act as interpreters. When business is concluded, the export commission merchant intervenes as a participant, largely for the purpose of financing the business, while the broker's activity ordinarily ends with the conclusion of the business. The export commission merchant receives his remuneration mostly from the buyer, whereas the broker receives his commission often from both parties and occasionally only from the seller, who is anxious to have the broker introduce to him as many foreign customers as

possible. These brokers are frequently fellow countrymen of the buyer, and sometimes the introduction may be effected by semi-public organizations such as manufacturers' associations, chambers of commerce, commercial museums, in which case, in the United States at least, no brokerage fee or commission is charged, though in Europe similar organizations are not above accepting a commission on the business concluded. Occasionally banks maintaining foreign trade departments introduce their foreign visitors to desirable connections, generally, of course, among the bank's own clientele.

The personal visit of the buyer lends the business for the time being a local character, but since as a rule the buyer does not accept the goods himself while visiting the seller, and the goods are shipped at a future time to the foreign destination, the export character of the transactions is maintained.

Some countries are more than others in the habit of sending buyers to the exporting centers. American importers, South and Central Americans, and lately Japanese and Australian merchants are more active in this respect than importers in Africa, India and certain other countries.

In order to attract buyers' visits, the export center must be favorably located from the point of view of geographical situation and provide special attractions, or it may temporarily be in a position to attract them because of political reasons, as for instance New York did during the recent war, when numerous buyers ordinarily visiting Europe made their pilgrimages to New York. Paris is a city which has exerted an immense attraction to Latin-American buyers. Again export centers which permit a survey of the entire industrial resources of a country available for export have attracted large throngs of foreign buyers, as Hamburg did before the war with its comprehensive collections of samples; or industrial communities where a special industry is largely centered as the machine tool industry in Cincinnati, or as the packing industry in Chicago, or New York with its wonderfully accessible grouping by industries within a narrow radius; and finally places where at specified times are held special fairs and expositions, as the Leipsic fair, the Lyons sample fair, the Nizhni-Novgorod fair, the Automobile show in New York.

The tendency of attracting buyers by maintaining exhibits of manufactured products has been taken advantage of New York in the installation of the centrally located co-operative exhibit by the Bush Terminal Company (International Buyers Club). Many American organizations, as the National Association of Manufacturers, American Manufacturers' Export Association, the Foreign Department of the National City Bank, offices of the Bureau of Foreign and Domestic Commerce, export publications like "The World's Markets," are sought out by foreign buyers because of facilities offered them.

2. The foreign buyer may make his purchases through agents domiciled in the exporting country and making periodical trips to the industrial centers. United States as an importing country avails itself largely of this medium. Buying agents of this character generally accept the goods and pay for them and are known as export agents.

3. Foreign buyers who regularly buy large quantities of goods in a specific export center frequently establish a buying office there which is charged solely with effecting purchases in behalf of the parent establishment. Many Japanese firms maintain such offices in the United States, and many colonial firms have such offices in England, while American department stores maintain buying offices in Paris, in the Far East and in many other places whence imports into the United States originate.

4. Correspondence is the most frequent medium of connection between buyers abroad and sellers in the exporting country. It may be the sole medium or it may supplement those already mentioned. While the cheapest medium, it has the defect of delays due to mails, which is somewhat counteracted by the use of the speedier, though more expensive and risky medium of cabling, and another defect is the difficulty of arranging a thorough examination of qualities by correspondence.

2. *Connections Opened Through the Initiative of the Seller.*

Connections between the exporting and the importing country on the initiative of the seller may be opened in the following ways:

1. Through *selling trips*. 2. Through *selling agents* domi-

ciled in the importing country. 3. Through *sales branches* located in the importing country, or through members of the firm taking up residence in the importing country for the purpose of attending to sales. 4. Through *correspondence* and *publicity*.

1. One of the most practical and efficient methods of initiating business connections with buyers in the importing country is through undertaking selling trips. This medium has its limitations in its comparative expensiveness, while certain countries also impose taxes and restrictions upon persons traveling for selling purposes.

Selling journeys are undertaken generally with the aid of samples and price lists, on the basis of which orders are solicited. In former times selling trips were undertaken by men who carried the actual merchandise with them. This is no longer done, excepting in the case of expositions and fairs, or in the case of valuable goods of small volume, such as precious stones, jewelry, etc. The selling trip may be undertaken by the head of the selling firm, or by an employee or by an agent.

The greatest prospect of success have selling trips undertaken by heads of the firm or by employees prominently identified with the management, competent to negotiate independently in the matter of quotations, concessions and conditions. This is true particularly of the initial selling trip to a foreign market. This enables the head of the firm to come in close personal contact with the customer, to obtain an insight into the competition, to learn the needs and the preferences of foreign localities. It also aids the prestige of the firm with the customer.

Usually, however, the traveler is an employee, preferably connected with the export management, and as a rule authorized to act for the firm by a general or limited power of attorney. Traveling salesmen are paid either a salary and expenses, or a salary, commission and expenses, or a commission and expenses. Selling trips are also undertaken by agents who may travel for one or more exporter or manufacturer, in which case they receive a commission and perhaps a pro-rata contribution to their traveling expenses.

The duties and the tasks of a traveling salesman in export markets are varied, difficult and important. A good traveling

salesman is expected to be familiar with the territory which he is to visit; to know the firms active there and their standing; the market conditions, the demand for his line and the current prices. His knowledge of these conditions is particularly important in case he travels for a general export house, for he is responsible for the assortment of samples which he must carry, and this must be both comprehensive and suitable for the market. He must possess a good technical knowledge of his goods. He must speak the language of his customer without being forced to resort to the services of an interpreter. He must have a good general knowledge of business, be presentable, self-reliant and courteous, persevering and correct in his living habits. Particularly difficult is his task when he enters a foreign market for the first time and when his firm and its products are unknown in the market in question. He must have the ability of quickly ascertaining the entire trade available for his canvassing efforts, and it may happen that this first trip may be educative and informative only, and though the results attained may be small, they may form the basis of a more efficient and successful attempt the next time. It is a mistake to be discouraged by such initial failure, without utilizing the experience gained in correcting the defects and faults which may have characterized the first trip.

2. The selling agent domiciled in the importing country, next to the traveling salesman is a very important link in the exporting organization. Without agents in the export field export business is very difficult. Agents are needed even where traveling salesmen make periodical or occasional selling trips. A traveling salesman may attain good results during his sojourn in a foreign market, but with his departure there comes a slump unless a resident agent continues to work the field. The agent's services are necessary when the goods arrive, particularly in the case of credit extension to foreign customers, when it is advisable to have a watchful interest in a debtor. In some markets where the credit problem is especially acute this is of great importance, unless the exporter limits himself to dealing with first class importers only. The particular market may be one where the volume of business does not warrant the expense of sending a traveling salesman. An agency arrangement as a rule does not

involve expenditure and provides a means for a regular though perhaps somewhat limited volume of business in a given locality.

Agents are generally apointed in important commercial centers of the importing country, which permits their serving a large circle of customers economically. This is particularly important in markets where the customers are native jobbers or large retailers. But where the customers are great importing houses, which are anyway an existing link in the organization of the international commerce, the services of an agent are less necessary, and to dispense with the agent means a saving of his commission. Customers of this class are less influenced by personal calls and are used to and equipped for purchasing at long range, and since it is not usual to operate with many such firms in one commercial center, it is not difficult or unduly expensive to keep them provided with samples, quotations, etc. Such importing firms in fact do not care to buy from or through agents. Indeed they frequently partake of the character of agents in relations to the exporters.

The selection of suitable, reliable and competent agents is a very difficult matter. The further distant a foreign point is, the better qualified should be the agent, because the difficulty of controlling him is increased by so much. There are many markets where it is utterly inadvisable to use the services of a native as agent. In many markets native firms which solicit agencies are very irresponsible. They may be unreliable in the selection of their customers or in other ways objectionable. Foreigners engaged in business in markets where such conditions prevail are either prevented by other arrangements from accepting additional agencies, or are too busy to do justice to them. They frequently lack the requisite technical knowledge to handle certain lines. It will be therefore the task of a careful exporter to use the greatest diligence in securing and appointing agents in those markets where an agent's activity appears desirable and in supplementing the efforts of the agents by periodical visits of traveling salesmen or members of the firms.

3. The most efficient method of selling abroad is through installing branch establishments abroad. It may be a selling office with stock sold to the trade, that is a wholesale establishment, or in some lines it may be a retail business or a combina-

tion of both. A retail establishment is only feasible in such populous foreign centers where a large retail demand exists for the goods in question. This may be done in such articles as typewriters, sewing machines, automobiles, etc. Or at least the consumers must be of an advanced stage of civilization, accustomed to European and American selling methods and to trained salesmen. Thus it has been found feasible to do both a wholesale and a retail shoe business in American shoes in many foreign cities in direct branch establishments of American manufacturers. European exporters maintaining branch establishments in certain colonial markets combine the character of wholesale trading with the retail trade in these branches.

The head of a foreign branch, in view of the distance and difficulty of communicating quickly with the parent house, must have thorough-going powers, which presupposes integrity and competence on the part of the branch manager and confidence of the parent establishment. It is the practice among European exporters to have such important branches under the management of one of the partners, but in American usage the directors of the corporation generally appoint a qualified man from the ranks of the home organization to take charge of the foreign office. The British custom has been until recently to give the branch manager an interest in the firm and to consider him a "salaried partner."

The foreign branch establishment in American usage may be conducted as part and parcel of the parent enterprise or a special company may be formed to conduct it. In European usage it is general to consider the foreign branch as property of the parent house, or to form a special co-partnership, or a limited liability company, with the parent house interested to the extent of a limited investment. The principals of the branch establishment then accept some of their higher employees as co-workers, allowing them to sign for the firm "per procuration." This is the practice of most German exporters having branch establishments in oversea markets as well as of many British firms.

The loosest sort of a connection with a foreign establishment, a connection which can hardly be termed as maintaining

a foreign branch, is found in the British system of "support accounts."

The exporter facilitates the creation of a business house in a specified foreign market by obligating himself to grant it a specified credit, while the foreign establishment gives a bond not to purchase any goods excepting through the export house in question.

A branch establishment abroad assumes to a certain extent the character of an importer. Certainly purchases of native houses from the foreign sales branch cannot be considered as direct import, unless the sales branch merely forwards the order to the parent establishment and the goods are shipped from the parent establishment direct to the customer.

4. Correspondence and publicity. The low level of civilization and commercial morality which prevails in many markets limits business getting by correspondence to European and American firms in certain localities, while there are also high grade native firms which must be distinguished from those which are undesirable as a direct connection and require constant control and watching by a resident agent or a branch establishment. The length of time consumed in correspondence makes it frequently difficult for the buyer and the seller to come to an agreement within a reasonable time. Cabling is expensive and is on account of the brevity of the message not a fully satisfactory substitute for a letter. This leads the exporter to the tendency of concentrating his cabling communications to few constant and regular connections.

The question of quality of the goods in doing business at long range is determined by the use of certain grade designations sanctioned through commercial usage, by description and by sending of samples. If none of these three methods suffice, it is impossible for the buyer and seller to come to any agreement on the point of quality by correspondence. It is customary in such cases to send samples, or specimens of the goods to an agent of a branch establishment a sufficient time in advance of the actual conclusion of business, and refer to same in correspondence.

As a means of extending business with an individual house correspondence alone is inadequate, particularly if competitors

have traveling or resident agents actively soliciting business. Only when the market is far enough from the beaten path, or when there is a specially intimate connection between the seller and the buyer, may the exporter content himself with correspondence as a means of soliciting the business of his foreign customer.

But as a means of campaigning for new business, correspondence in the form or circularization is a particularly effective weapon if used with good judgment. It should be accompanied by the judicious use of modern publicity as suitable both for the goods sold and for the market and class of customers it is desired to reach. Publicity may include advertising in export journals, advertising in foreign publications, the sending out of market reports, periodical price lists and house organs with the proper method of following up such efforts. Circularization and publicity should be employed the more actively the closer to general consumption is the demand for the goods it is desired to sell and the broader are the strata of the trading community that purchase and distribute them. The principles underlying the correct methods of publicity in foreign countries could well form the basis for a special volume. It may be briefly noted, however, that it must be suited to the reading and marketing habits of the class of trading community in a given locality which it is desired to reach. Thus in some community advertising in the local press may yield good results, in another a liberal use of billboards, still in another the employment of high grade catalogs. The text of the circular, the advertisement, the billboard must be most competently prepared by a person with a thorough knowledge of the article to be advertised and the circle of buyers it is desired to reach. The language of the country, or the language best understood by its business community should be used. Quotations and delivery terms must be given so as to have a definite meaning for the parties interested. The illustrations must be adapted to the mental development of the classes of readers for whom they are designed. A detailed discussion of the problem of export publicity from the point of view of the American exporter is given in Chapter XX.

CHAPTER VI.

I. The Organization of the Export Trade (concluded.)

C. THE ORGANIZATION IN THE IMPORTING COUNTRY OVERSEAS.

1. *Oversea Importers Classified.*

In its widest sense the term *importer* includes all those who either acting for own account or for others receive goods shipped from abroad involving rights and obligations towards parties located in the country of export or an account relationship with a parent or branch establishment in the country of export.

In this sense the term importer would apply also to those who import goods for their own consumption, as manufacturing enterprises importing raw products needed in their manufacturing operations; and if a manufacturer establishes a selling branch abroad, that selling branch would be engaged in importing, though it may not handle goods other than manufactured by its parent establishment.

In a stricter application the term importer is applied to a merchant who in the course of business currently introduces goods of foreign origin into his home country and undertakes their distribution.

Under this stricter definition we distinguish two groups of importers, first wholesalers and retail dealers of the same kind as are engaged in the domestic trade; these are generally interested in the importation of specific classes of merchandise (though oversea department stores which fall into this group furnish an example of importers handling a wide range of goods), maintaining stocks of merchandise and distributing their imports among inland buyers from stock. This group of importers makes purchases of goods abroad merely because a given class of merchandise cannot be obtained as advantageously from home producers. The second group of importers include merchants whose sole aim of activity is the importation of for-

eign products, and who as a rule are not particular about the classes of goods which they import. This last group are importers in the strictest sense of the term, and as they handle a wide range of imported products it is customary to call them *"general importers."* General importers seldom maintain stocks of goods. They import as a rule from countries and markets from which their customers cannot conveniently import direct on account of difficulties involved. Their customers generally are producers and wholesale merchants.

2. *Oversea Consumers as Direct Customers of Exporters and Manufacturers.*

Whereas in the great manufacturing countries large industrial enterprises very frequently cover their requirements of raw products and other supplies which are not obtainable from the home production by importing them direct from abroad, in other words appear as direct importers of foreign products for self-consumption, this tendency is less evident in the oversea markets which we have under consideration in connection with the export of manufactured goods from the industrial countries of Europe and America to the essentially importing countries which constitute what is termed by the essentially exporting countries their "export field."

In these essentially importing countries industrial enterprises do not occupy the economically important position of industrial enterprises of the manufacturing countries and they depend very largely for their supply of raw products upon domestic sources. When compelled to purchase foreign raw products, tools or machinery they may find that the exporting manufacturers or merchants prefer to sell them through importers located in the importing country, particularly in the case of delivery contracts involving conventional fines, guarantees, etc. In many instances it is customary for the seller to undertake the erection of machinery sold to such enterprises, and it is then desirable to have a technically trained agent or representative on the spot. In dealing with these consumers it is customary to sell direct only when every safeguard has been observed, and in fact these importing consumers themselves pre-

fer to deal with someone responsible on the spot who can immediately act in the case of complaints.

Other consumers in the importing countries who import products for their own use are large plantations, railroads and mining enterprises which buy machinery, supplies and stores. Many of these have their own buying offices in the United States and Europe. In the case of plantation and sometimes of mining enterprises these purchasing offices are combined with the sales offices for the sale in the United States and in Europe of their own production.

Only the smaller planters are called upon to buy their supplies through importers at home. But a good agency can frequently secure the business of many of the larger and the smaller enterprises of this character by being on the spot and by being able to show samples and catalogs and to make direct offers to the technical management.

In connection with the rôle of foreign consumers as customers we must not overlook governments, state administrations and municipalities. In many markets these public bodies are very large buyers. Frequently they operate railways, tramways or industrial monopolies. They cover their requirements either by inviting public bids, or they may turn over the purchasing to importers, either foreign or national, or they may send purchasing commissions to exporting manufacturing countries. Local customs govern dealings with this class of customers, and each country presents its own problems which may vary from the freest competition strictly on the merits of the proposition to more or less involved proceedings in which a conscientious foreigner either cannot or will not participate.

In certain oversea markets religious missions of various denominations are an economic factor from the point of view of import. In many places they have been the pioneers of foreign trade, but while German religious missions have been lately much criticised for using their ostensible spiritual calling as a cloak for commercial or even for sinister activities, other organizations of this character, which more nearly approach the ideal, are factors of commercial importance to the extent of exercising a generally civilizing influence in indirectly developing a demand

for foreign goods and establishing through their prestige a certain favorable soil for future commercial activities of their nationals, as the influence of Roberts College in Constantinople which has indirectly prepared a favorable disposition towards American customs and products in the Near East.

3. *Oversea Wholesalers, Jobbers and Retailers as Direct Customers of Exporters and Manufacturers and as Customers of Oversea Importers Properly Speaking.*

Retail dealers in foreign markets are only rarely suitable customers for exporting manufacturers and exporters. They are as a rule better advised to buy from importers and wholesalers in the nearest importing center. An exception may be in the case of exporting manufacturers who make a practice of selling to retailers at home, as for instance manufacturers of inks and stationery, in which line business is done in small and frequent shipments. This is true particularly in markets that are not too distant or difficult of control, and in goods suitable for retail distribution without further manipulations. In certain markets, such as the Near East, the European manufacturers make a practice of canvassing the retail trade in a variety of lines, and a similar condition prevails in Mexico as far as American manufacturers of certain commodities are concerned. It must not be forgotten, however, that retailers—outside of the great department stores, which here may be ignored because as a rule they have their own purchasing organization and buyers wherever they draw considerable supplies, and besides this class of establishments is not as common in the oversea markets as it is in the United States—are financially a weaker class of customers, more easily affected by disturbing factors of passing nature, less accustomed to dealings with foreign suppliers than with wholesalers and general importers in the import centers of their homeland, and finally they buy smaller quantities of individual articles than the wholesaler or the importer. On the other hand retailers are prepared to pay better prices. If an exporting manufacturer sells in the same market to wholesalers and to retailers he must protect the former by giving them lower quotations or special discounts.

Ordinary jobbers or *wholesalers* as customers for manufactured products may be regarded under two headings, European and oversea wholesalers. In Europe foreign manufactured products are as a rule imported by wholesalers and jobbers exactly of the same class as handle domestic manufactured products. A British wholesale dealer in ironmonger ware will buy American or French hardware as merchant for his own account, and such merchants, though they do incidentally an import business, are not considered properly importers, unless they specialize in manufactured goods from foreign countries, such as American office supplies, or French silks, or imported toys.

Overseas, however,—referring to the essentially non-industrial and importing countries, considerable differences in the status of wholesalers and jobbers are encountered, dependent upon the distance from European and American sources of supply, upon the cultural development of the country and of its people, upon the nationality of the wholesale distributors of imported manufactured goods to the retail trade, as well as upon the various factors which affect the development of the representation of foreign manufacturers and exporters in the particular oversea market.

Naturally enough, if the oversea market is relatively close to the exporting country the foreign manufacturer and exporter can enter more readily into direct connections with the ordinary wholesaler in the importing country. Correspondence may be exchanged swiftly, samples may be sent, purchasing and selling trips are relatively inexpensive and easy of accomplishment. It is easier to sell to a wholesaler in Canada than in Brazil.

A still more important factor is whether the ordinary wholesale distributor in an oversea market is from the point of view of education and commercial training fit to enter into a long range business with a European or American manufacturer or exporter. There are gradations even in under this point of view. A native wholesaler may not be capable of entering into connections with a manufacturer or exporter in a distant country, but may be safe enough to do business with through a traveling salesman or agent, or he may be totally unfit for such direct business connections at long range, and then he must deal ex-

clusively with local importers or local branches of foreign concerns.

The extent to which the trade of native wholesalers and jobbers may be cultivated by means of agents representing the foreign manufacturer or exporter direct depends not only upon the two factors just mentioned, but also upon others. Is the native wholesale trade inclined to order goods for future delivery? Is the market important enough from the point of view of turnovers to assure sufficient earning capacity to the agency enterprise? Are the payment practices and credit requirements favorable? For in case these are not, the foreign manufacturer and exporter must place an exceptional amount of confidence in the agent with regard to the choice and the control of customers, and these latter elements are a retarding factor; moreover in some markets the native trade is traditionally given to the tendency of squirming out of the fulfilment of obligations in the event of unfavorable market changes. Again the foreign manufacturer and exporter will have to be sure of adequate banking connections for the effecting of collections, as it is frequently inadvisable to leave these to the agent; finally an important factor is whether it is possible to exchange detailed communications with the agent quickly and inexpensively.

Where the exporter in the strictest sense of the term (a merchant for his own account whose business is predominantly based upon the export of manufactured goods to oversea markets) seeks out and solicits customers of his own initiative, that is where he does not act as a middleman in making purchases for his oversea connections or a grantor of credit, he will endeavor to do business with ordinary wholesalers and jobbers wherever local conditions permit him to do so rationally, particularly when he can reach the ordinary wholesale trade with the aid of sales agents. He will endeavor to do so in preference to selling to importers in the strictest sense of the term.

The exporting manufacturer, however, will find the difficulties and the risk of dealing with ordinary wholesalers and jobbers in oversea markets so great that outside of those countries which have advanced in culture so far as to possess a trained wholesale trading community competent to enter into a long

range business with Europe and America, he will prefer to enter into business connections with importers in the strictest sense of the term for the cultivation of oversea markets.

The oversea importer in the strictest sense of the term, that is the merchant engaged exclusively in the import of foreign merchandise of all kinds, is an intermediate link in international commerce between the exporter in the widest aspect of the word on the one hand and the native wholesale distributor or jobber in the importing country on the other. The general importer as a rule sells almost exclusively to wholesalers in the territory in which he is located, though he will also endeavor to furnish supplies to large consumers and to public bodies. Selling to retailers or to smaller tradespeople is more or less of an exception and is found only where the proper basis for the business of a general importer is lacking or commencing to vanish.

The oversea importer in the strictest sense of the term mediates import business from countries with which the ordinary native wholesaler either cannot or will not enter into direct connections. Taking China, for instance, where the native community is passive from the point of view of international commerce, foreign general importers rule not only the import from exporting countries outside of the Far East, but even from Asiatic countries. The import trade here is generally in the hands of European and American firms, particularly as far as the import from United States and Europe is concerned. But here Japanese merchants act as importers for Japanese products, and Hindu merchants as importers of India products.

The basis for the development of the business of such importers (called general importers because of the wide range of products which they handle) is most favorable where the native wholesale trade is not in a position to attend to importing direct. For this reason Europe is lacking largely in houses specializing in the import of manufactured products for the distribution among wholesalers, because these can well do their own importing. There is, however, in Europe a large class of commission merchants who take up the import of foreign manufactured products in the capacity of agents. The principal field of activity for importers in the strictest sense of the term is in

territories where the local trade is not equipped for importing direct from distant countries, as for instance in most Asiatic countries, in South Sea Islands, in West Africa, in the Levant. In other foreign markets the position of the importer properly speaking depends upon the extent to which the wholesale trade has developed direct connections with exporting countries.

Just as general exporters, general importers, being importers in the strictest sense of the term, do not exclude any merchandise from their activity, but occasionally limit themselves to countries whose products they import. Even among wholesalers in many overseas markets there is frequently lacking a specialization by classes of merchandise, such as is the rule in highly developed industrial countries. Nevertheless in recent years there has grown up a certain specialization among importers, such as import of machinery and engineering supplies, import of textiles, or import of chemicals, oils, etc. In that case the distinction between such importers and wholesalers is found in the fact that importers properly speaking either do not carry stocks and sell to wholesalers only, or in those rare cases when they do carry stocks, they still limit their business to the wholesale trade in their territory, apart from sales to public institutions and certain big producers and consumers. The business of these importers finds its characteristic in supplying foreign goods for the wholesale trade. This is noticeable in the import trade of the United States, the importers specializing in certain commodities and finding their customers principally among domestic wholesale distributors.

In the countries, however, in which the domestic wholesale trade has learned to an increasing degree to import direct from abroad, the importer properly speaking begins to compete with the wholesale trade and acts as a distributor to retailers and small jobbers in the inland points. This occurs to a growing degree in South American countries.

4. *Analysis of the Activities of Oversea Importers.*

The importer in the strictest sense of the term, being the counterpart of the exporter in the strictest sense of the term, can be a merchant for his own account or conduct his business

on a commission basis. His business may be like that of the exporter in the collection of orders to purchase goods. In this case he is a buying commission merchant, or an indent merchant.

Though these importers, for reasons which we will enumerate below, are increasingly inclining to do business as merchants for own account, frequently they conclude even such business as buying commissioners, as in the case of indents, of which more will be said later on.

Importers in oversea markets avoid, as far as they can, the importation of goods before having effected a sale, because of the risk of market fluctuations by the time such goods arrive, although they realize that goods on the spot may not only be more quickly sold, but also at better prices than goods for future delivery. Sometimes, however, circumstances force them to import goods before they have sold them, the assurance of better prices which they can secure lessening the risk of loss.

In certain markets, where a system of barter still exists, goods must be imported by importers before they are sold in the country of importation. In these smaller markets the element of competition is as a rule less pronounced and the danger of fluctuation less imminent. Even in more important markets the danger of fluctuation is less pronounced in the case of staple goods, such as, for instance, so-called "Manchester goods" currently sold in Eastern Asia. But even in the case of goods previously sold in some markets the importer is not free from risk, because sometimes the native trade is apt in the case of suddenly occuring deterioration of market conditions to go back on its word and to refuse the acceptance of the goods. Then the importer may prefer to import goods before they are sold and to draw such advantages from having goods in stock as the market situation may afford, being thus more or less independent of the whims of customers. In markets where such conditions do not prevail the importer may be sometimes induced by a spirit of speculation to import goods before having sold them, or the visit of a chance traveling salesman may have provided him with a special offer inducing him to take a so-called "flyer."

While substantially the character of the importer's activity

is that of a *buying commissioner,* the importer properly speaking seldom carries on his business on the basis of a buying commission on percentage. His reasonable desire to draw as much profit as possible from his activity precludes this. The ordinary percentage basis of such deals does not sufficiently appeal to him, particularly as he sells to his trade on the basis of delivery at the customer's place of business and in the local currency, whereas his purchase is placed in the currency of the exporting country, frequently at the mill or factory, and freight and insurance are fluctuating elements for which he cannot always provide in his contract with his customer. Neither do the customers as a rule attach too much importance to the percentage commission, as it is difficult for them to control the actual prices paid by the importer, for even the receipt of an invoice copy is not an essential means of verification.

As a *selling commissioner* the importer may receive instructions from an exporter in the exporting country to conclude business on the basis of samples, catalogs, price lists, etc., or he may receive consignments of goods for sale. The first relationship is not very frequent. Without the assumption of the del credere guarantee by the importer the exporter would prefer an agency relationship to the selling commission relation, because in that case he enters into direct contact with the buyers. But if the importer is to assume risks involved in the del credere arrangement he naturally desires a greater profit than is open to him in a percentage commission. He will enter into such an arrangement only if the exporters will not deal with him otherwise, on account perhaps of his limited financial strength, or in case he attaches a particular importance to the securing of a representation of some special manufactured product, and the manufacturer in question desiring to exercise a controlling influence upon the sales price will not assent to any other but a commission arrangement. But even exporters attach only slight importance to a commission basis arrangement with the importers in foreign markets because of the difficulty of controlling prices charged to customers and actually paid by them.

But importers in oversea markets are at all times willing to accept goods on *consignment.* This enables them to have the

benefit of spot goods without the risk of buying them on speculation. The exporter by sending a consignment stock has the advantage of doing spot business abroad without maintaining a branch of his own, receiving the benefit of better prices attainable thereby. This is particularly true of cases when neither the customers are willing to buy the particular goods nor the importers to import them in the unsold condition, as in the case of new and untried lines. The consignment proposition is from some points of view one of the best means of extending exports, although American manufacturers and exporters have an established prejudice against it.

This is due to the extraordinary degree of risk inherent to the consignment business. First, there is for the consignor the danger that the market situation may deteriorate before the goods arrive at the destination. The consignor generally is less conversant with local market conditions than the importer. There is the danger of mistakes of judgment and intentional misleading on the part of the importer to the detriment of the consignor. Once the consigned goods have arrived at destination, they are difficult to dispose of in the case of untoward circumstances. In a market close at hand consigned goods may be easily taken back, but transportation costs and customs duties make it a costly experiment in oversea markets. It is likewise difficult to come to a satisfactory arrangement with the consignee in the case of the necessity of altering the disposition arrangements. This places the consignor into the hands of the importer. There is danger of the accumulation of warehousing, insurance and other charges, loss of interest, risk of the deterioration of goods. Finally there is the danger of unsold consigned goods being used by the ultimate customers to exercise pressure upon the consignor in order to secure lower prices. In the case of current consignments it is customary to demand frequent statements of stock on hand and sales effected.

Occasionally exporters having excessive stocks in certain commodities will send consignment stocks to importers in whom they place special confidence, ordering them to sell as best they can, but very generally such goods are sent to branches of banks, agencies of forwarding houses, etc. Frequently the instructions

are to sell such goods at auction, as in the case of lots damaged in transit, etc.

Even as an exporter, the importer may act sometimes as buying and selling commissioner in the same business transaction. Doing strictly an agency business is somewhat out of the range of an importer's activities. The importer, as a counterpart of the exporter, intervenes as a middleman in international commercial transactions, partially financing them, paying the seller in the exporting country the value of his goods in advance, frequently at the time of shipment, and assuming the task of credit extension to the customer. Still it happens, particularly in the case of importing firms of weaker financial standing that in addition to import proper they act as agents; while importing firms of higher standing accept agencies only in dealings with manufacturers who may refuse to enter into relations with them on any other basis.

The importer may get his goods either direct from the manufacturer or a wholesaler abroad (the latter generally in the case of agricultural produce or of manufacturers who turn over the sale of their output entirely to middlemen) or indirectly through general exporters, or it may be through their own parent house in Europe and in United States. The former is not as frequently the case as one might expect, because a connection with a general exporter offers the general importer certain advantages. For this reason general importers overseas largely leave the buying of their requirements in Europe or in United States to a general exporter. Even when they give their orders to a traveling salesman they frequently stipulate that these must be first "confirmed" by their buying house or parent establishment in Europe or in United States. The oversea agents of European and American exporters and manufacturers frequently regard importers resident overseas as their competitors, and the latter do not as a rule for that reason care to buy from the former. Buying from manufacturers either for their own account or on commission basis, importers frequently establish a sort of a constructive representation arrangement, endeavoring to sell the manufacturer's products on the basis of samples, catalogs and price lists. In that case they occasionally stipulate

an exclusive right to represent their source of supply in their territory.

General importers overseas sell usually to the wholesale trade in their territory. This is almost exclusively true in Asia and in Africa—outside of South Africa. The sale from the importing center to the interior, or to minor coast ports or the re-export is left to wholesalers. Even where European concerns in the importing center have branches in minor points in their territory, they use these mostly for the purchase and the forwarding of native products rather than as selling branches for imported goods. This is because European and American importers in these import centers prefer for reasons of increased security to sell only to native wholesalers, and because in the distribution from the importing center inland they could not compete with native wholesalers. The native wholesaler can effect the distribution more cheaply, as for instance by means of junk boats in China, native carriers, etc. This relieves the importer from the risk of being exposed to chicanery on the part of native authorities, special taxes, etc. Native wholesalers can effect business with their own fellow-countrymen more rationally, they run less risk in granting credits to natives, their expenses are smaller, their standard of living more modest, and they are content with smaller earnings. This is particularly true in markets where the distribution still uses the caravan as a medium. In re-export these native wholesalers prefer to enter into relations with their own nationals located abroad, as for instance the wholesalers in Bombay as re-exporters are in business relations with Indian firms in Zanzibar and on the Persian Gulf, the Chinese wholesalers in Singapore in relations with Chinese merchants in Indo-China.

In the Orient—both the Near and the Far East—the native business community is centered in the *bazaar*. This is generally a special part of the city, consisting of a complex of streets with business establishments wholesale and retail. Here the native traders sell both home and imported goods.

For mediation of business with bazaar merchants, as well as with the general run of native traders who have not attained to European culture, the European and the American merchants, particularly the general importers, use often the service of na-

tive brokers. This is done largely because of the difficulty of understanding the language of the native merchant. The native brokers speak either a European language or at least a dialect understandable to the foreigner, such as pidgin-English in China. And in many markets it is considered below the social standing of a European or American importer to solicit business direct from native traders.

In territories where a native wholesale merchant class is lacking foreign importers must establish either branches or special settlements which are not in current independent connections with houses in Europe or America. These undertake the inland distribution of imported goods. Such conditions prevail in South Sea Islands and in Central Africa. In territories where the entire wholesale merchant community has some form of European culture, as in South and Central America, South Africa, Australia, general importers sell also to wholesalers throughout the country, excepting to the extent that the large wholesalers may be domiciled in the importing center and dominate the inland distribution trade, so that the importers dare not compete with them, fearing to lose their custom.

Wherever the ordinary native wholesalers do not maintain direct connections with Europe and America either in the import or in the export, it is the custom for the merchants mediating in international commerce to unite import and export trade in one enterprise. This is largely done in Asia and Africa, with the exception of South Africa, certain parts of North Africa and the Asiatic Levant, also in the South Sea Islands, in the small import and export trading communities of South and Central America and of the West Indies. Among general importers here only those of weak financial standing limit themselves to the import trade exclusively, because the capitalization required for the carrying on of export trade is considerable, particularly as the turnover in produce is generally much larger than in the manufactured goods imported into these markets. The combination of import and export is to some extent due to the desire to utilize to the utmost the expensive oversea business establishments. European employees in these establishments receive much higher salaries than at home, for which reason European and American staffs are not large and are sup-

plemented as far as possible by native assistants; the principals in these foreign places are called upon to live in an expensive fashion in order to maintain their standing; the cost of establishing, controlling and communicating with such oversea establishments is high.

Again the manner of doing business with consumers, which is based in many places on an exchange of commdities, suggests this combination of import and export. For this reason foreign houses in many markets maintain settlements in charge of so-called *"factors,"* both for trading and for producing purposes, often representing a system of barns, warehouses, sales rooms, etc., with a semi-military organization of employees. Such factors generally are vested with very thorough-going powers.

5. *Advantages and Disadvantages of Dealing with Oversea Importers in the Strictest Sense of the Term, from the Point of View of Exporters and of Exporting Manufacturers.*

The advantages of dealing with general importers may be considered from the following points of view: in dealing with general importers the exporter has to do with merchants of European culture and business training. The same code of commercial morality prevails among them as in the European and American business communities. Their capitalization on the whole surpasses that of the ordinary local wholesaler. As a class they are not numerous in proportion to their commercial importance and it is easy to secure reliable credit information regarding them. Business dealings with general importers are characterized by a higher average or security. They do not overstrain the confidence of the exporter as much as the ordinary native wholesalers. They demand less credit and shorter terms. Frequently they pay cash with their purchases, opening credits for their requirements either with a European or an American bank or with their parent house or buying branch in Europe or America. In the hands of the general importer there accumulates a concentration of the demand for a certain territory which simplifies the selling task of the exporter. It is possible to limit

dealings with general importers to correspondence, supplemented by cabling and only very occasional visits of traveling salesmen. Dealing with general importers saves the expense of establishing branches or even of appointing agents. Only in certain import centers, where the line of demarcation between general importers and the ordinary domestic wholesale trade is not sharp, as for instance in Buenos Ayres, and where foreign exporters sell to both classes, is it customary to employ agents even in intercourse with general importers.

The advantage of the simplified commercial organization when dealing with a general importer is counterbalanced to some extent by the disadvantage of the higher price of goods when reaching the trade and the consumer due to the earnings of the general importer. This may reach the stage of hindering the development of export in a given article, or at least of curtailing the exporter's earnings. Increased competition may therefore sometimes force the exporter to go around the importer in the foreign market and to sell direct to the wholesale trade. But even apart from the point of view of the selling price, dealing with general importers export cannot attain that degree of development which is possible in selling to wholesalers, retailers and public institutions and producers through branches, agents and traveling salesmen. Selling direct is more expensive, but also more effective. In dealing direct the exporter comes to learn the tastes, the demand, the peculiarities in each market. The commercial organs directly subservient to him are busy in his own interest exclusively. The exporter cannot impose upon an independent importer, even where he has granted him his representation, any selling policy of his own. If he changes his actual representative or agent, the exporter still retains his circle of customers, but in changing his connections with one importing house for that with another, even if the first is entrusted with a so-called representation or agency, the exporter loses his circle of customers, particularly where goods are shipped in neutral make-up. Through relations with several general importers in the same place it is rarely possible to build up an extensive business, for particularly in smaller places it is impossible to sell the same goods to more than one importer. The local wholesalers would be only too eager to exploit the competi-

tion between them. This would lead to lower prices and the importers would lose interest in handling the article. In combining sales to general importers with sales through traveling salesmen or agents to wholesalers, jobbers and retailers, the exporter loses the benefit of the concentration of the demand in the hands of the importer. Such a combination is very difficult even in the case of price concessions to the importers and the reservation of certain lines for them, for importers as a rule do not tolerate the simultaneous commercial intercourse of the exporter with them and with their customers. This is of smaller importance in those places where the position of the general importer has become weakened and they approach more or less the character of ordinary wholesalers, as is the case in many South American points. Particularly dangerous is the practice of turning over a representation or submitting samples to general importers who are subjects or citizens of a nation different from that of the exporter, for they are apt to show the samples to exporters of their own nation to the detriment of the foreign exporter. This is a point which American exporters must consider, because they have comparatively few general importers abroad of American nationality thorugh whom they can do business. Concentrating their dealings with one general importer the exporter runs the risk of considerable loss through one individual business failure, whereas occasional unavoidable small losses through failures of individual smaller customers may be counterbalanced by a little extra charge by way of self-insurance.

6. *The Growth and Development of Import Trading Centers Overseas.*

An import center is a place where foreign goods are bought in large quantities for consumption, distribution or further shipment. Therefore all prominent sea ports where goods are imported are import centers; points of particularly large consumption of imported goods, and to a lesser extent transshipment points are also import centers. Import trading centers are such places where imported goods are largely traded in, whether for inland use or for neighboring countries, whether shipped direct

from abroad or in re-export.

The international importance of an import trading center depends in the first instance upon the quantity of imports traded there and secondly upon the range of sources of supply and selling territories with which the import trading center is doing an extensive business. The quantity of imported goods traded in an import trading center depends upon the existing demand and the capacity of absorption of imports in the territory served by it and upon the degree in which it must share with its competing import trading centers the task of supplying that territory with imports.

As a rule there is a full freedom of international competition in these import trading centers. But occasionally we find places in which one country's imports predominate. It may be that the import trading center is in a territory which maintains either freedom from import duties or preferential duties for the products of one exporting country side by side with high protective duties against imports from others, as in the case of some French colonies; or the importers in a given place may all be tied up with or financially dependent on connections with one particular exporting country, as for instance in Dutch East Indies with regard to Netherlands, where until recently even goods of other than Dutch origin were bought through Dutch importers via Holland. The sales effected from an import trading center (referring to European and American manufactured goods imported there) are rarely international. This international selling of imported goods, that is intermediate trade with other foreign countries, is of importance in Bombay, Singapore and Hongkong.

In European countries dealing one with another, due to more or less direct dealings between wholesalers and retailers importing their supplies and exporters abroad every commercial center is at the same time an import trading center, and there is observable therefore—particularly in Germany—the phenomenon of the decentralization of import trade.

It is principally a seaport, and secondarily an inland navigation port, where imports can be delivered by marine vessels or by river navigation in connection with marine navigation, that

is likely to develop into an important trading center of import commerce, the examples of the latter being Bagdad, Asuncion, Montreal. Or it may be a large city in close proximity to a seaport, such as Lima-Callao, Caracas-La Guaira, Osaka-Kobe, finally important centers of consumption inland, Cairo next to Alexandria, Delhi besides Bombay and Calcutta, Johannesburg besides the seaport cities of South Africa.

While the growth of import trading centers is a phenomenon of centralization of imports in certain strongholds, cultural and commercial development inevitably brings about a certain decentralization. Thus the development of a modern system of railways, the tendency of vessels to touch minor ports of entry, the effort of foreign exporters by sending traveling salesmen and agents to call on the trade in minor points, the competition among traders in smaller commercial cities forcing them to import direct, the rise of the cultural and commercial levels—all lead inevitably to the participation of additional towns in the general importation of foreign goods.

The exporter whose activity adds to this decentralization must figure upon the loss of his trade with general importers located in the prominent centers of import commerce, receiving in their place a wider circle of customers, who are generally weaker financially, requiring more credit, frequently of inferior commercial training, and from whom he can for a time secure higher prices until the competition neutralizes this advantage, but to deal with them requires a more expensive organization, greater difficulties—for instance, the need of competent agents, who are not so easy to secure—so that an exporter will not frivolously attempt to decentralize his trade with an import market. But if a decentralization tendency in a given market is observable, it may be a wise policy to be among the first to organize accordingly.

In many minor points in the Orient and elsewhere the same goods are imported direct from the exporting countries and bought by wholesalers from the general importers in the import trading centers. The ability of the latter to do business in spite of direct importing by wholesalers in smaller inland towns is due to the fact that their customers receive from them credit favors which make them dependent upon the importers, where

as the exporter cannot or will not finance the wholesaler abroad to the same extent. Then the general importers obtain their goods so much cheaper than the ordinary wholesalers in these smaller towns. General importers and large distributing wholesalers located in the importing ports can because of the larger volume of their transactions always underbuy and therefore undersell the wholesalers in the inland trading points.

CHAPTER VII.

II. The Organization of the Import Trade in Products of Oversea Origin.

A. THE ORGANIZATION IN THE EXPORTING COUNTRY.

1. *General Remarks.*

In foregoing chapters we considered the organization of the commerce in manufactured products shipped from the industrial countries, such as the United States, Great Britain and certain countries of Continental Europe to countries which to a large extent obtain manufactured goods from abroad, or countries which we broadly call the export field.

We pursued our consideration of this organization beginning with a review of the organization in the exporting country; we proceeded to a consideration of the connections between the exporting country and the importing country, and finally examined the counterpart organization in the importing country.

We may now turn our attention to the consideration of the import trade in the industrial countries, and in this connection we may ignore the import into one industrial country from another, such as imports into United States from European manufacturing countries, or imports into one European manufacturing country from another, in other words imports of manufactured products or the interchange of manufactured products between two industrial countries. Large as this trade is, its characteristics have been discussed in and are covered by our consideration of the export trade from manufacturing countries. Agencies, manufacturers' own branches, wholesalers' branches, sales representatives, traveling salesmen,—correspondence also, because of the usually good postal service between industrially developed countries of Europe and between Europe and United States on the one hand, buying trips and buying agencies on the other cover the organization of the import of manufactured products by one manufacturing country from another. This busi-

ness, moreover, is limited by tariff walls (excepting in imports into Great Britain before the war) to specialties which are either through patent protection, or more efficient production capable of competing against the home product.

In examining the organization of the import trade we will rather take up for consideration the import into the industrially developed countries referred to of natural raw products gained in oversea countries. And here again we may follow the same line of examination as pursued in reviewing the organization of the export trade: we will commence with the organization in the exporting country, then proceed to a review of the connections between the exporting and the importing country and the organization in the importing country, bearing in mind that the goods are chiefly natural products, the sellers are located overseas and the buyers in United States and Europe.

2. *The Participation of Oversea Producers in the Export of Oversea Products to Industrial Countries.*

In exporting from oversea countries the producer plays a far less prominent rôle than the European or American producer in exports from Europe or America. The reason is that in these countries the manufacturing industry has not reached a high degree of development, and even where manufacturing enterprises are fairly well advanced, they have not yet attained the position of being able to do more than cater to the home market, in other words they are not capable of doing an export business or competing in international transactions. In many instances producers in these countries are unsuited for direct dealings with foreign countries.

As examples we find the sugar industry in Egypt: the producers here avail themselves of the service of exporters in order to place their production in the European and American markets; Chinese silk growers, because of the inability of natives to do a direct business, are dependent upon the services of European and American exporters to ship their goods to Europe and the United States; though silk filatures in China which are owned by foreigners do a direct business, but they are generally owned by export merchants, so that this can be hardly

quoted as an example of producers oversea doing a direct export business; the Japanese manufacturers are capable of doing a direct business in their cheap wares, but there exists a strong prejudice on the part of American and European importers against doing a long range direct business with Japanese producers. The great meat packing industries of the River Plate countries, on the other hand, in exporting direct to Europe furnish us with an example of direct export by oversea producers.

Among producers overseas shipping their products direct to industrial countries we have in the first instance the great *mining enterprises*. They produce materials largely used in Europe and in the United States. To a large extent these enterprises are owned and managed by Europeans and Americans. They are very frequently enterprises of great magnitude, fully capable of maintaining their own selling organization abroad. They either sell through their parent establishment which is apt to be located in Europe or in United States, or through agents. Or they make contracts with prominent importers in those countries, or with their buying agents in the country of production. The volume of individual transactions is usually large. Sometimes the output for a specified period is contracted for; usually entire shiploads are sold. The smaller enterprises of the same character, however, are dependent upon the services of export houses in the country of production. Thus the large producers of saltpeter in Chile sell direct to foreign countries, the smaller producers to exporters. The mining enterprises of Tasmania sell their production on a large scale, receiving bids for the entire output of individual mines from buying agents representing European buyers.

Agricultural enterprises located overseas including the great tobacco, fruit and other plantations, do relatively a larger direct export business than agricultural producers in America and Europe. These plantation enterprises may be owned in Europe or in United States and sell their products direct through their parent house, or they may enter into relations with importers or with banks from which they receive advances and to which they turn over their production on consignment. Many of these producers in addition to producing act also as merchants, inasmuch as they buy up the production of small native

producers, or take it up by way of barter, for which reason they also import foreign goods. This is done to a large extent in the South Sea Islands and in Central Africa, where purely a plantation business without the commercial side lines would not be very profitable. Purely plantation enterprises doing a direct export business are the tea and indigo plantations in India, tobacco, coffee and tea plantations in Dutch East Indies, sugar and tobacco plantations in the West Indies, tobacco, cocoa, sugar, coffee plantations in Central America and in the northern part of South America.

Among producers doing a direct export business we may also count some *colonial administrations* which either operate plantations officially or impose upon the natives the production of certain quantities of specified products, or collect their taxes in the shape of natural products. They sell these products either to colonial exporters, or direct abroad through specially appointed sales commissioners, as the Dutch and the Congo governments, and, before the war, also in some instances the German Colonial Office.

3. *Oversea Exporters Shipping to Europe and to United States.*

In our consideration of the organization of the export trade we established the following distinctions between the various types of exporters: we found that the term exporter in its broadest aspect includes all persons who export, but that in its stricter application it refers to two groups of exporters. The first consists of wholesale merchants principally engaged in the domestic trade, trading regularly in certain specified classes of merchandise, maintaining stocks of goods which they sell both inland, and if opportunity offers, abroad, and entering preferably into business connections with such foreign countries trading with which offers no unusual difficulties, that is doing an incidental export business; the second group—and these are exporters in the strictest sense of the term—is formed by merchants in whose business the idea of export predominates; these generally keep no stocks; they exclude no class of goods in principle from their operations; they take up dealings with markets with which an

ordinary wholesaler would find it too difficult to do an export business. These exporters are specialists in doing an export business, and are frequently termed "general exporters" because of the universal range of products which they export.

In exporting from overseas the distinction between these two groups is not always clearly demarcated. The characteristic noted previously in differentiating beween them, namely that the former first purchase the goods which they handle and sell them afterwards, from stock, and that the latter sell goods first and arrange for their purchase afterwards, does not apply overseas to the same extent as it does in Europe and in America. Overseas, too, there is a tendency among exporters in the strictest sense, that is among merchants doing exclusively an export business, to specialize in one line, as for instance in the export of tea.

Overseas a special characteristic applies to exporters in the strictest sense which is absent in the case of general exporters in Europe and in United States: they generally intervene as middlemen between the regular wholesalers and jobbers of the exporting country and the buyers abroad, although there are also some regular wholesalers who do their own exporting and exporters in the strictest sense who buy up small lots of products from smaller producers, in order to export them in larger lots.

Even if an exporter in oversea countries does not generalize in his exports, but specializes in one product, and the regular wholesalers and jobbers—if there be such in the territory concerned—participate to some extent in exporting, he still must be considered as an exporter in the strict sense of the term, that is an exclusively exporting merchant, if the volume of his business exceeds the usual scope of the regular wholesaler, and if his business clearly shows its aim to attend exclusively to the export of home products to oversea markets.

The dominating role of these exporters in the strictest sense of the word, that is of merchants specializing in export, in the export of products from oversea producing countries to the industrial countries of Europe and America, is due to many reasons. The business of selling oversea products in Europe and America requires the mastery of a complicated commercial technique, a large capitalization, or at least a thorough-going finan-

cing assistance of banks and of importers, for which reason regular wholesalers and jobbers, whose principal business is to buy up lots of products from producers and small traders inland, cannot as a rule engage in direct dealings with Europe and America. They must leave this to firms whose specialty it is to negotiate business with foreign markets; particularly is this true of oversea producing countries where the wholesalers and jobbers do not possess the commercial training equivalent to that of European and American businessmen.

Exporters in the strictest sense of the word located in oversea producing territories are generally Europeans or Americans. Americans are assuming an increasingly important part as exporters from the Far East and from Central and South America. The native merchants of Central and South America, though they participate to a marked degree in the import of manufactured goods into their countries, still occupy a weak position in the matter of exports of their national products to Europe and America. To a lesser degree than Europeans and Americans we find Asiatic firms exporting direct to Europe and America. Native firms from the East Indies find occasionally credit in London and send consignments direct to London. Japanese firms maintain sales offices in Europe and America, particularly in raw silk.

The reasons for the predominance of Europeans and Americans in the export trade from overseas to Europe and America are parallel to those accounting for the prevalence of exporters in the strictest sense of the term, that is of merchants specializing in the export trade. Particularly dominating is the position of European firms specializing in export in the shipment from oversea producing territories to Europe and America of those commodities in the world trade which are specially subject to international speculation. It is clear that such commodities can be handled only by firms thoroughly conversant with the commercial technique of the world's markets and maintaining the most intimate relations with them.

But the wholesalers and jobbers in these territories who do an incidental export business, particularly in trading between countries where a considerable cultural difference exists between

the native and the foreign commercial factors, are very largely native firms. In this case the native wholesaler doing an export business as a side line preferably enters into business relations with a fellow countryman abroad.

We already indicated that oversea firms doing business with Europe and America combine to a large extent the import with the export business. Being thus general importers and exporters, such firms do not as a rule exclude any line of saleable products from their operations. Only some articles which require too much attention to details, as for instance curios, are eliminated by many large firms, while smaller firms abstain from handling lines which require too large a capitalization for their proper handling, or are too risky, or presuppose a special technical knowledge and equipment. Such lines are then handled by specialists, as for instance specialists in tea or silk in the Far East.

Import and export, however, are apt to be separated, either altogether or partially, when the export trade of the particular oversea territory has attained a degree of development permitting a large business even when specializing in either the import or the export, and also permitting domestic wholesalers to participate to a greater extent either in import or in export. The increased participation of domestic wholesalers located overseas in the import and export trade leads in some instances concerns which had formerly done a general import and export business, to drop importation and to devote themselves exclusively to exportation, since in this class of business ordinary wholesalers cannot efficiently compete with them. And eventually these houses may even specialize in the export of a few selected commodities, not necessarily of the same character, but promising large and profitable transactions.

Oversea exporters carry on their business as merchants for own account, and in the majority of cases buy commodities first and sell them afterwards. They may ship the goods after effecting the sale, or they may sell them while the merchandise is floating on the sea, or they may sell it after arrival in Europe or America. In the case of commodities subject to violent price fluctuations in the world's markets, the international speculation

being able to affect prices in a marked degree, a considerable risk attaches to business of this class. The exporter is thus drawn into speculation; he may buy for future delivery, or he may contract in advance for the yield of an entire crop, he may accumulate large quantities of the commodity concerned and wait for a favorable market situation before selling. He may seek to protect himself by making firm or unbinding offers to buyers in Europe and America and receiving orders on the basis of which he places his own purchases. This is not a very frequent proceeding because of the difficulties of concluding business in speculative commodities by correspondence and against the submission of samples between oversea exporters and buyers in Europe and America, and because of the time lost in the exporter's securing delivery promises and quotations from third parties.

Oversea products are subject to considerable price fluctuations. Unlike manufactured goods exported from abroad, which can be produced whenever desired, we deal here with concrete existing quantities of commodities, and third parties may not be induced to keep their products in stock while the exporter is coming to an understanding with the buyer abroad, but may be tempted to sell at the first opportunity.

While principally acting as merchants for own account, oversea exporters act also as buying commissioners. The order to buy may be received by the exporter on the basis of the buyer accepting his firm or unbinding offer, or on the basis of a time and price limit set by the principal, or the principal may leave the price, etc., to the judgment and integrity of the exporter. Where the oversea exporter makes an offer of a specified quantity of a commodity at a specified price, he charges a buying commission and expenses, although he may have made his offer on the basis of a stock bought by him on speculation. Since this is usually done in articles in which a general market price rules, as for instance in wool bought in the River Plate districts, there is nothing improper or illegal in this practice. Though buying on commission, the exporter in such instances also assumes the guarantee of quality, and in the case the goods do not come up to quality, he must pay the price difference on the

basis of arbitration, without having a recourse to his own source of supply; he really has the same responsibility as when acting for his own account, and the commission relationship is merely a matter of form.

Under such circumstances the exporters overseas generally prefer to act for their own account solely, because this leaves them more scope for the increase of their earnings and safeguards their rights under the law to a greater degree. Another point which makes a commission relationship undesirable, is the difficulty of controlling the quotations of the export commission merchant, since he has to buy often in a number of smaller and out-of-the-way producing bases, the market prices prevailing in which seldom reach Europe or America, and again in many commodities standards of quality are lacking and a definite market price is therefore impossible to obtain. The greater the distance between the shipper and the buyer, the greater the difficulties in the way of establishing a commission relationship. Likewise where the range of variations in standards of quality and in possible quotations is very great, these difficulties are increased. Buying commissions, however, are frequent in oversea markets where the medium of auctions is used to dispose of produce, as for instance in buying tin, coffee, indigo in Dutch East Indies, wool in Australia and South Africa, since the price paid by the commission man can be easily controlled.

Less frequently is the exporter overseas called upon to act as a selling commissioner. A case in point is when the exporter has his own establishment in Europe and America and accepts a shipment on consignment. This is done sometimes when the producer desires to receive an advance from the exporter. This is not a usual proceeding, however, for exporters prefer to take advantage of a producer's need of funds to buy cheaply for cash, whereas it is the banks that make of specialty of advancing funds against produce.

Occasionally the exporters overseas and the importers in Europe and America form a combination, whereby the first attend to the purchase and the latter to the sale of a commodity. A variety of arrangements are possible under such a combination, both parties being interested in the most careful and profitable disposition of the shipment.

4. *Middlemen Intervening Between Oversea Producers and Oversea Exporters.*

The exporter in the strict sense of the term does not always buy direct from the producer when shipping oversea products to industrial countries as United States and Europe. He may do it in the case of such producers as large plantations, or where a wholesale merchant class is lacking, as in the South Sea Islands; and as a rule the exporter buys direct from mining enterprises or manufacturers. But indirect buying prevails in the purchase of oversea exporters for shipment of most oversea produce to industrial countries.

Several middlemen intervene between the producer and the exporter. These buy up the produce in smaller places and concentrate it in the more prominent trading centers. Here they partly sort and pack it for export. In India, for instance, the small grower or even the small trader takes jute to the bazaar in Calcutta; here it is bought by the *baler* who cleans it, sorts it and packs it, places his native mark upon it and only then sells it to the exporter; though some exporters do their own packing. Even so in China tea and silk are assorted by qualities and receive their "chop" from the native trader. In the case of tea the trader does not even buy direct from the producer, but from a *"collector."* In the Brazilian coffee business between the planter and the exporter appears a *"commissario,"* and sometimes the *"ensaccador"* who packs the coffee into sacks. In Buenos Ayres the *"barraqueo,"*—the owner of a warehouse and packer—receives the wool from growers on consignment, selling it to exporters. Similarly acts the selling broker in Sydney and Melbourne. In Australia and South Africa *storekeepers* occasionally buy the wool in small quantities. On the West Coast of Africa the *caravan* trade turns over to the exporter goods which it receives in barter for imported articles while traveling through the interior. On the East Coast of Africa, particularly in Zanzibar, the *Hindu trader* has developed into a middleman.

Exporters in the strict sense of the term shipping produce from overseas to industrial countries generally buy the commodities which they ship in the immediate vicinity of their place of business. To buy in the interior or in minor coast points re-

quires the opening of buying branches or agencies or the sending out of special buyers, as it is usually impracticable and unsafe to buy by correspondence (excepting in the case of large producers and traders of European or American training). There is also danger in entrusting subordinates with buying oversea products. But the closer the exporter comes to the producer the more cheaply he can buy and the more readily can he control the quality of the commodity. For this reason export houses in Shanghai maintain buying agencies in several Chinese treaty ports, and tea exporters send out their own buyers into the interior.

Where a suitable series of intermediate links between the producer in the interior and the exporter in the principal shipping port is lacking, a buying organization in the interior is a necessity. This is also true in the case of commodities bought for re-export in oversea trade. Commodities drawn from producing territories to the export shipping center are almost entirely handled by native or semi-native firms before they reach the exporter, where the wholesale trade in the producing territory and in the export shipping center is recruited from other than Europeans or Americans. Thus Indian produce which is re-exported from Singapore to various destinations through the European exporters there is handled by Chinese wholesalers, being gathered by them from their fellow countrymen throughout the Indian archipelago. Similar conditions prevail in Bombay, Shanghai, Singapore, etc. Only where in the producing territories exists a body of large producers or wholesale merchants of European or American training will the exporter in the oversea re-export trade enter into direct relations with them on a large scale, as in Sydney, in re-export to the South Sea Islands, and in Buenos Ayres, in re-export to Paraguay and Uruguay.

Middlemen between exporters and producers often intervene in the production of oversea products by furnishing loans and advances to producers. The producer who receives such loans or advances must offer hypothecary security; he may hypothecate his expected crop to the exporter, as is done in Brazil on the basis of so-called coffee hypothecations, or he may simply bind himself to turn over his crop, partly or altogether, to the exporter at a stipulated price. Similarly it is customary

to give advances to middlemen who undertake to offer their commodities in the first instance to the grantor of the advance. Through such financial transactions the exporters not only receive a handsome interest return on the money advanced (in South America even with a mortgage on the crop the exporter receives 10 to 20%), but they also secure a supply of the commodities handled by them at more advantageous prices than would be possible were the sellers independent of the exporters.

Public marketing institutions are another source of purchase of commodities used largely by exporters as the wool market in Buenos Ayres, the cotton markets in the interior of India, auctions in Dutch East Indies, exchanges such as in Alexandria, in various places of South America and Australia, etc.

5. *The Growth and Development of Oversea Export Centers in the Shipment of Oversea Products to Europe and America.*

As export trading centers in oversea territories the principal are the sea ports and river cities from which direct shipment by ocean going vessels is possible. In other words in the oversea export trade to industrial countries the important point for the development of an export center is its favorable situation with regard to outward shipments. Export shipping and export trading coincide here. Only occasionally do we find minor ports whence commodities are shipped to Europe or America though the sale is effected in a nearby larger port. As example we may mention Bombay from where cotton is sold, though the shipment may be made from several minor Indian ports. A similar condition prevails in Shanghai.

Goods that are shipped out from minor ports which are not trading centers are frequently first taken to a trading center, there transshipped, sorted, packed and finally shipped out. Important trading points afar from ports, as Cairo or Delhi, are of consequence only from the point of view of import.

The reasons for this development of ports as not only centers of export shipment but also of export trading in the export of products from oversea territories to industrial countries are several: first, it is important to control the manipulation of

such goods in the shipping port; the second reason is in the organization of freight traffic in oversea countries. The exporter is seldom in a position to collect and to sort the goods properly in interior points of those countries. This is generally done in the port of shipment. It is a delicate proposition, requiring much knowledge of commodities, which freight forwarders in such territories do not as a rule posses. Again it is the practice in this business to charter ships for shipment, and it is important to have the goods packed and warehoused as close to the points of shipment as possible. Finally there is a historic reason to be mentioned. The original settlements of European and American exporters overseas were on the coast where the protection of men-of-war was available, whereas settlement in the interior was too unsafe. Thus the export trade in native produce developed first from the coast and the intercourse with the interior was left to natives. In many territories this stage of commercial organization still prevails. In others, though the foreign merchants finally settled down in the interior, they opened branches on the coast for attention to export, as in Colombia and other Latin-American places.

The importance of the export shipping centers in oversea countries shipping to Europe or America depends upon the extent of the territory from which goods may be most advantageously supplied to it thanks to natural routes and to artificial media, upon the extent of the exportable production, upon the favorable location with regard to shipment to customer countries, upon shipping connections, upon the energy and efficiency of its merchant community, upon political considerations such as export duties in the exporting country and import duties in the importing countries. These duties are a hindrance, free trade is an aid to reexport, as for instance in case of Hongkong. The international character of an export shipping center from the point of view of purchasing is observable if from that export shipping center goods of more than one country are shipped to industrial countries. Examples of this are Singapore, Hongkong, Zanzibar, Buenos Ayres, or where the tributary territory is exceedingly large, as in Rio-de-Janeiro, Bombay, Calcutta, Shanghai, Batavia. From the point of view of sales the international importance of an export shipping center depends upon the commercial ramifica-

tions it maintains with countries buying the commodities shipped from there and upon the ability of the export shipping point to influence the price of goods shipped from there.

An oversea export shipping center has the ability of influencing the price of commodities shipped from it when the export community settled there is financially independent of import trading centers abroad and makes its own offers to customer countries either through agents or by correspondence and cable; when the producers and wholesalers of the exporting country are sufficiently well organized and possess the necessary training and experience to protect their interests, remaining independent of the exporter in the strict sense of the term; which means that at the time they effect a sale they are not indebted to the exporters, nor are forced to sell their goods to the exporters until such time as it is convenient for them; when the trading community maintains produce exchanges or other associations for the regulation or market prices and the protection of their interests.

But where—as in the case of certain export shipping points of the Dutch East Indies in relation to Netherlands—the export community depends financially upon connections in one or more importing centers abroad, when export is carried on by means of consignments and with the financial assistance of the importer, the price is influenced by the importing center and the commercial importance of the export shipping point is weakened. Under such circumstances it is even apt to lose international importance, maintaining connections perhaps with one country solely, or pre-eminently, as the Dutch East Indian ports, Saigon, Algiers, etc.

CHAPTER VIII.

II. The Organization of the Import Trade in Oversea Products.

B. The commercial connections between the exporting countries overseas and the industrial countries of Europe and the United States in the shipment of oversea products.

We may parallel here the consideration of the commercial connections between the exporting and the importing country as already described in the export trade in manufactured products from Europe and America to what is usually termed the export field, and regard these connections from the point of view of the buyer's and the seller's initiative.

1. *Connections Initiated by the Buyers.*

a) *Buying trips.* On account of the great cost of undertaking buying journeys to oversea countries, these are not very frequent in the import trade of Europe and of United States but are undertaken nevertheless in special instances, such as wool auctions in Australia, indigo auctions in Calcutta, tobacco auctions in Sumatra, etc., where the personal intervention of a prominent buyer may have some effect upon the price or other commercial advantages may be gained. Where the buying trip is undertaken by an employee, a person of thorough technical knowledge and enjoying the thorough confidence of his principal is chosen.

b) *Buying agents domiciled in the oversea country.* Where the European or American importer buys from an oversea exporter in the strict sense of the term, the services of a domiciled buying agent on commission basis are unnecessary. But where the services of a buying agent are employed, the latter is generally called upon to make cash payments for the products bought, and a person enjoying the thorough confidence of the

buying firm must be chosen. The practice of buying oversea products through buying agents domiciled overseas is comparatively rare.

c) *Buying branches and purchasing offices.* In view of the difficulties in the way of a rational purchase of oversea products, the establishment of permanent buying offices in territories from which large quantities of products are currently bought is a frequently employed method. Many oversea exporting firms are in reality branches of foreign houses, established to act as purchasing offices.

d) *Correspondence.* While the importer in Europe and America and the exporter overseas, being technically trained businessmen, find no inherent difficulty in doing business by correspondence (excepting where they gain time by using the cable), a difficulty exists in coming to an agreement as to the quality of goods, and the fluctuation of prices likewise limits the utility of correspondence as a medium of connection. Many deals require signatures to contracts, and the business cannot await the slow process of mails, and for this reason the presence of an authorized representative at the point of export is preferable.

Suitable for treatment by correspondence are commodities which have quality standards, and here the use of cables is of great assistance. Correspondence between importer and exporter as a sole medium of connection (with the aid of the cable) is customary when the exporting house in a way acts as a representative of the importer, and vice versa, that is if they are active one for the other as buying or selling agent, such a relationship being based on mutual confidence.

e) *Consignments.* This is an important feature in the sale of oversea products particularly in Europe and will be discussed in detail in that section of this chapter which deals with the organization in the importing country.

2. *Connections Initiated by the Seller.*

a) *Selling trips.* These are entirely unusual in the sale of oversea products to industrial countries. There is no need for selling trips with samples. The principal selling point in oversea products is the price. Prices in this connection being a fluc-

tuating element, there is little advantage in having a representative moving from place to place, as traveling salesmen.

A *resident representative* is much more to the point, for he can submit price quotations to the entire trade concerned throughout the season. There is in the sale of oversea products to Europe and America no incentive of controlling the activity of the sales agent or of watching the business through occasional personal intervention of a traveling agent, as is advisable in the export of manufactured products to oversea markets, particularly as the agents in Europe and America as a rule are more reliable and more likely to be experts in their line. In place of a selling trip with samples or a stock of goods, we have here preferably the consignment business, though even this is giving way to more modern selling methods.

b) *Selling agents domiciled in the importing country.* In the import trade of Europe and America, though more so in the case of Europe than of America, the connection between the oversea exporter and the European and American importers is largely maintained through selling agents domiciled in Europe and in America. This method effects a great saving in expense, as cabling is concentrated upon one recipient, which is an important consideration as in some lines it is customary to make daily price offers; the salesman is in receipt of quality samples in the beginning of the season; this enables the exporter to reach many even smaller customers; the domiciled sales agent through his personal intervention can best utilize the changing market conditions; he also acts as a confidential man who may exchange contract signatures with the buyer, or maintain the interests of the seller in the case of disputes as to the quality of the goods, etc.

Some oversea products cannot be advantageously sold through the exporter's representative resident in the country of import. This is the case when the products are either of too high an intrinsic value, or too individual in character to be suitable for negotiations at long range without inspection or examination by the buyer. Only such products are suitable for long range negotiations in which definite standard types have been established and accepted by commercial usage. Another instance of oversea products which are unsuitable for negotiations through selling

representatives resident in the country of import is where the exporter is located too far out of the way of the great world trade routes and ships irregular quantities of products at irregular intervals. In such cases it is far more advantageous for the exporter to sell his products after arrival at destination, preferably on consignment. If the exporter has his own establishment in Europe or in America it eliminates the necessity of a resident selling representative, at least as far as the sphere of the activity of that establishment is concerned. Beyond that he may appoint agents who would be subordinate to his European or American establishment.

It is customary for oversea exporters who find it advantageous to employ resident representatives in Europe or America to have these located in the most prominent import centers. These agents as a rule specialize in the class of produce which they handle. In view or the great volume of individual transactions in the import of oversea produce, such specialization is generally profitable, and this specialization is largely due to the fact that handling such produce presupposes a very thorough technical knowledge of each commodity.

c) *Sales offices.* As we have already seen, in the relations between the European importer and the oversea exporter, the European or American house is either the parent establishment or the financing establishment of the oversea exporter. The reverse is very infrequent. Therefore the activity of the European or American house is largely that of a sales branch, either concluding business for future shipment, whether the exporter has or has not at the time purchased and taken possession of the products sold, or acting as a sales commission firm, accepting goods on consignment or selling them while afloat. It is more customary to use such connections than commission agents in the strict sense of the word, for if the goods prove saleable with difficulty, the exporter's own connection can store them in own warehouses, saving warehousing charges, and because of the sales commission thus saved for the firm's own parent house.

From the foregoing we see that in the sale of oversea products in European countries or in America, the principal import-

ance is to be attributed to *sales agencies,* to the *consignment* business, and to *branch* or *parent* establishments in Europe or in America.

C. THE ORGANIZATION IN THE IMPORTING COUNTRY IN THE IMPORT OF OVERSEA PRODUCTS TO INDUSTRIAL COUNTRIES OF EUROPE AND TO UNITED STATES.

1. *The Rôle of the Importers of Various Classes.*

Maintaning our division of importers into two groups, importers in the widest sense of the term, and importers in the strict sense of the term, we must include among the former the following:

European and American consumers, such as important manufacturers who buy their own raw products abroad, wholesalers and retailers who are principally engaged in domestic trade and only incidentally import foreign goods, European and American branches of foreign producers which are not at the same time engaged in strictly commercial operations on a large scale, governments which import the products of their own colonies, in order to sell them in the mother-land through the commission trade, banks which occasionally receive goods on consignment without making a specialty of the import business.

Among these the principal importance must be attached to the great industrial enterprises which increasingly engage in the direct import of their supplies of raw products, particularly in the case of bulk products. This is facilitated by the army of sales agents which oversea producers maintain for cultivating this trade, selling their products on the basis of c. i. f. contracts. In recent years these consumers have been in the habit of chartering ships and even of sending out buying agents for the purpose of arranging for these imports.

The principal obstacle in the way of such direct dealings is that the ordinary run of manufacturers are averse to assuming the risk of importing. Apart from price fluctuations the import risk includes the possibility of quality disputes or deterioration of the goods or of quantity disputes, the risk of the loss of entire shipment, in which case the insurance, though covering the financial loss, may not overcome the inconvenience of the non-

arrival in time of required raw products; the risk of being forced to accept shipments of inferior quality, though it be against the re-imbursement of price difference; the risk of being forced to pay an over-price in case of the average quality of goods shipped exceeding that on the basis of which the sale had been effected.

Such risks are usually readily borne by the importer, because in reselling he can generally obtain the full market value of the commodity, but they are an inconvenience to a manufacturer who generally needs a specified product at a specified time. In case it is not fully available he has not the same facilities as the importer in re-selling, and may be compelled to procure a substitute at much expense. He may be at times compelled to delay his production, and insurance and other re-imbursements cannot begin to cover his loss in that respect. Other obstacles in the way of direct relations between oversea exporters and European and American manufacturers and producers as importers of oversea products for their own consumption are the inadequate assortments, the excessive minimum quantities of each grade, the requirements of exporters to establish a short term acceptance credit in London or New York. The last two points affect smaller manufacturers more than they do a large manufacturer.

Similarly smaller wholesalers and jobbers, such as inland wholesalers in colonial products, find it difficult to maintain direct relations with oversea exporters. For this reason these smaller wholesalers buy from importers (generally before the arrival of the goods in Europe or America) on so-called import terms, and while they thus assume a part of import risk, this method of doing business can hardly be called direct importing. Finally governments, such as for instance maintain tobacco or match monopolies, appear as direct importers, but these must be counted among industrial enterprises importing for their own use.

Thus we find among importers in the widest aspect of the term, the great industrial enterprises as the most prominent, and we can now take for consideration the activities of importers in the strict sense of the term.

Importers in the strict sense of the term are divided into

two groups. In the first group we find wholesalers and some retailers (such as department stores) keeping stocks and doing a large domestic business, in one or more lines of goods, and procuring a part of their wares from oversea sources. In the sales of oversea products, particularly in what is known as colonial goods, there is a wide range of variety among them. Some handle a single line, such as tobacco, others several lines, as coffee, tea, rum and sugar, or tea and indigo, or coffee and sugar. The fact that such importers maintain stocks stamps them as merchants for own account. They buy their goods direct, put them in stock where they submit them to some sort of treatment, such as thorough assortment, cleaning, mixing, external changes, such as coloring coffee; then they sell from stock, frequently under their own quality brands. Oversea buying and selling commissions do not enter into the routine of such an import business, at least not regularly, although occasionally importers engage in activities such as would lead to their classification in both groups of importers in the stricter sense of the term.

The importers of this first group generally carry on an extensive selling business. Their customers are largely wholesalers of the lesser type, producers and manufacturers and some of the large retailers. They appoint sales agents, solicit business by correspondence, sometimes maintain traveling salesmen, and in some rare cases have a network of retail establishments. They buy their oversea products on the basis of import contracts, endeavoring to procure them from oversea exporters at first hand, or through the exporters' European and American representatives. Sometimes they buy from importers in the strictest sense of the term. Occasionally they buy any lots of the commodities in which they trade that happen to be procurable in Europe or America.

They buy largely from planters and other producers, oversea exporters, consignees. They buy often at auctions; the goods bought by them are unimproved, that is not re-packed or assorted.

This class of importers play a large rôle in the import of oversea products.

The second group of importers in the stricter sense of the terms may be termed importers properly speaking. These are

merchants who do exclusively or predominantly an import business, selling to wholesalers or to importers of the type just discussed; they seldom carry stocks and as a rule do not exclude any variety of imported goods from their operations.

This class of importers includes business houses which do exclusively an import business, or exclusively an import and export business, that is they import oversea products for sale at home and export home products for sale overseas, but do not distribute home products among home consumers. They may have their own branch establishments abroad, or they maintain a twofold relationship to their business friends in the industrial country, namely in the directions both of import and export; to this class of importers we must also reckon European and American establishments of enterprises exploiting the natural resources of oversea countries alongside with the carrying on of commercial operations; banks and other institutions which receive consignments of oversea products as cover for loans.

This last named class of importers is frequently found among the financial institutions in European ports of entry for oversea products. We find also in New York and New Orleans private banks which are also import merchants or import and export merchants on a large scale granting loans to oversea producers and receiving consignments of goods in return.

Importers in the strictest sense of the word, or importers properly speaking, may act for own account or in the capacity of commission agents. As merchants for own account they may import oversea products for sale after arrival. This is done generally by firms which have their own establishments in the exporting oversea country, and preferably in staple articles. In articles subject to speculation, as for instance coffee, importers in the strictest sense of the term make their sales to the wholesale trade usually before arrival at the port of destination. Importers of this group seldom undertake any sorting or other manipulations of the goods imported.

Acting on commission basis, importers of this group may be regarded either as buying or as selling commissioners.

Buying oversea products on commission is not a usual mode of procedure among importers of this class. They do this at times when they can turn over the order to buy oversea products

to a branch establishment of their own overseas, or when they accept orders from manufacturers to purchase some raw products overseas. While in the latter case they are commissioned to buy, the transaction itself is not usually carried out on a commission basis, in other words the importer appears as a merchant for his own account. The responsibility and the quality guarantee which he assumes make it undesirable for him to content himself with a percentage basis remuneration.

But importers of oversea products operate very largely as selling commissioners, provided they do not maintain their own buying establishments or producing enterprises overseas. This selling commission relation with oversea exporters is based to a great extent upon the practice of consigning oversea products. This is due to the following circumstances:

The principal function of importers in the strictest sense of the word is to finance the export business from oversea producing territories to European and American markets. This financing is effected by means of advances to oversea exporters for the purchase of European or American manufactured goods or supplies, by shipments of European and American machinery and other manufactured goods on credit, or by furnishing credits for such shipments to manufacturers in behalf of oversea buyers. This establishes a sort of a dependance relationship on the part of the oversea exporters towards the importers in Europe or America. For this reason they must consign their products to the importers in Europe or America, so that the latter may be secured by the turning over of shipping documents to their oversea bank or representative, and later by the receipt of the merchandise itself. In due course the merchandise is sold and the importer reaps a profit without having run any other risk than that of granting credit against a good security.

The consignment business is an advantage to the oversea exporters from the point of view of affording them about the only rational means of exporting to Europe and America without having there branches of their own. It is more difficult to sell oversea products in Europe and America without representation than European and American manufactured products in oversea markets, and for this reason consignment business is more usual in the export of oversea products to Europe and

America than in the export of European and American manufactured goods to oversea markets.

Another reason for the prevalence of consignment business in the export of oversea products to industrial countries is in the practice of establishing price quotations for certain of these products at auctions which offer the buyers an opportunity to cover their demands immediately and at current prices. If a British spinner were to purchase a shipment of wool from Australia before the periodic auction of wool in London has established a market price, he would run risk of loss, since the London auction may establish a lower market price of wool than that paid by the spinner.

Occasionally an oversea exporter who has no branch of his own in Europe or America sends out a shipment of his products in the hope of selling it while afloat. In this he may be disappointed, and he turns it over to an importer on consignment. This is also done when his customer refuses a shipment either because of real or imaginary complaints or because of inability to pay for it.

In addition to these specific causes, there are several other reasons which account for the prevalence of the consignment business in raw products shipped from oversea producing territories to industrial countries as compared with the shipment of European and American manufactured products to oversea markets.

The principal reason is that the former is less risky than the latter. There is less danger of loss of money to the consignor in the shipment of oversea products to Europe and America on consignment than in the shipment of manufactured goods to oversea markets on consignment, even granting that raw products are more subject to price fluctuation than manufactured goods. In the first place the demand, the purchasing power and the purchasing eagerness in Europe and America for oversea products is more uniform than that which prevails overseas in regard to imported manufactured goods. There exists a wider opportunity for disposing of consignments in Europe and America at reasonable prices. Secondly, European and American consignees are financially better situated and show a greater

average of responsibility and reliability than consignees overseas receiving manufactured goods.

Thirdly, the reports of auctions, the daily market quotations permit a greater control of the prices secured by consignees in Europe and America than in the sale of manufactured goods by oversea consignees.

For this reason the consignment business is most flourishing in those import trading centers where in addition to lively financial relations with oversea markets the practice of holding auctions of oversea products is most prevalent. This is principally the case in London.

Importers of this group are often specially equipped to carry out selling operations in oversea products on a large scale, by means of auctions or by offering same for public bids. For this reason it often happens that importers in the broader aspect of the term, such as planters maintaining their own branches in Europe or America, or governments such as the Congo Administration in Belgium, turn over their imports to these importers for sale on commission basis.

In many lines of oversea products, particularly in English practice, it is customary for importers to call themselves *brokers*. Apart from the fact that these importers indeed operate as brokers by way of a side line, this designation is intended to indicate that they sell oversea produce for the account of others without employing third parties as brokers, but acting as brokers themselves. But since they assume independent contractual obligations in receiving products from overseas, they are to be considered as selling commissioners rather than brokers.

The customers of the importers in the strictest sense of the term are mostly wholesalers, particularly those specializing in certain classes of merchandise. Many of these wholesalers do also some direct importing for their own account. But in import trading centers where it is the practice to finance oversea exporters on a large scale, and where the importing organization consists of firms maintaining their own branches overseas, the bulk of importing is done by the importers in the strictest term of the word, and wholesalers with stocks of merchandise cover their requirements for imported goods by buying from the importers. In London, for instance, there is a wide distinction

between the *import merchant* and the *dealer,* which term is applied to a wholesaler dealing in imported goods of specific classes and carrying a stock of same.

The wholesale dealer's principal business is to act as a middleman between the importer in the strictest sense of the word and the buyers in the interior; it is his business to seek customers, to note their requirements and by purchases from importers to make up the needed assortments.

Since importers in the strictest sense of the term handle a variety of products the sale of which requires the intervention of experts, and since their principal function is to cultivate relations with oversea markets, and they are thus specialists in the form of the business rather than in the characteristics of all of the commodities sold by them, they frequently employ brokers in the marketing of their imports. Brokers are specialists and experts both for the merchandise and for the selling methods prevailing in marketing it. It is their business to value and appraise the product, to draw samples from each shipment, to oversee the required manipulations, to keep in touch with and to canvass the available circle of customers in the case of private sales and to attend public sales such as auctions. In the case of disputes these brokers frequently act as sworn experts. Where the importers in the strict sense of the term lay a particular stress on the financing side of their activity, they depend to a large extent upon the co-operation of brokers, and the latter play an important rôle in the merchandizing organization. This is true to a large extent of London.

2. *The Growth and Development of Import Centers in Europe and in America.*

The general international importance of an import trading center in Europe and in America in handling oversea products depends upon the volume of trading, upon the extent and variety of exporting countries shipping their products to it, upon the extent and variety of the purchasing territory served by it, and finally upon the influence it exerts upon the fixing of the price of commodities in the world market. An import center may be the destination of a great quantity of varied products, but it

may serve only a limited territory, for instance one special country, as Le Havre. Its international importance is then one-sided, being in the direction of purchase rather than of sale. The influence exerted by an import trading center is conditioned by the quantity of import traffic passing through it, but not by it alone. The character of the commercial organization centered therein, the activity in purchasing in oversea producing territories and in selling oversea products through private and public sales, and the existence of commodity exchanges with a large speculating following have a great deal to do with the exerting of influence upon the world market price of commodities.

The specific importance of an import trading center may relate to the extent of its participation in the import trade from a certain oversea territory, or to the supply of the demand for oversea products in a certain purchasing territory, or to its influence upon the establishment of a world market price in a certain specified commodity. Thus, for instance, Antwerp as an import trading center has specific importance for Congo products and for South American wool.

The development of an import center in industrial countries is dependent upon the extent of import traffic reaching it from oversea territories, upon its geographical situation, both from the point of view of economic relations and the artificial traffic and transportation media connecting it with the outside world, upon its commercial organization, upon commercial usage in certain commodities, and upon political factors.

We have already seen that in the import trade with oversea products reaching industrial countries, local sales are of great importance. That is imported commodities are warehoused, manipulated, sold at auctions, or disposed of to wholesalers who sort and stock them and then sell to the inland trade. For this reason one of the principal pre-requisites of an active import trading center is its suitability as a warehousing point. Warehousing is most economically and conveniently done in the port of entry, so that it is generally the ports of entry with a large volume of import traffic that have developed into import centers in oversea products. But it is not always the import receiving center which is the import trading center. Rotterdam, for instance, is

far more important as a center of import entries than as a center for the distribution of imports.

The import receiving center requires a favorable geographical situation which is suitable for the development of a great maritime traffic and a favorable situation with regard to the territories of distribution. This may be aided by the construction of canals and railways, it may be affected by customs tariffs. The geographical situation plays an important part in the competition between the importers in the strict sense of the term and their customers inland who may seek to import direct.

The commercial organization is an essential factor. The existence of a well organized import trading community may hold the import trade even if conditions favor the development of a seaport as the goal of import traffic. Importers who finance the oversea exporters in their operations cannot be robbed of their connections with the same ease as importers who buy on the basis of c. i. f. contracts.

Commercial usage finally is another factor of great importance in the the development of an import center. In olden days when spot goods trading was prevalent in the import trade, the latter was more or less dependent upon points where maritime traffic was concentrated. The development of long range business upon the basis of c. i. f. contracts has enabled manufacturers and producers even in minor points to enter into direct relation with oversea exporters. This, of course, does not apply to all oversea products, so that the decentralization process has not affected all oversea products in the same measure. The prevalence of auctions in certain import centers, and the body of commercial usage which has grown up in connection therewith, counteract the process of decentralization and the development of long range business, making it difficult to wrest the dominating influence of the import receiving and distributing centers.

The political factors mentioned as affecting the development of import centers include the possession of colonies, preferential treatment of colonies in customs tariff matters, ship subsidies for traffic with colonies. The historic examples of such political factors are the effects of Cromwell's Navigation Act, which developed the English ports, of Napoleon's conti-

nental blockade which served to develop the continental import centers.

In modern times the decentralization process in the import trade, with the gradual growth of long range business between minor points inland and on the coast with overseas, has had the effect of increasing the relative importance of newer and minor trading centers at the expense of the older import trading centers, although the volume of traffic passing through the latter may even increase because of the operations of the former.

An example of an import trading center which has lost much of its former importance is London. The bulk of oversea imports in Europe—outside of the Dutch trade which always gravitated towards Amsterdam — formerly flowed to London, which was the center of a great re-export traffic. In the latter part of the nineteenth century, the increase of the long range c. i. f. business boomed other European ports, Hamburg, Bremen, Rotterdam, Antwerp and Le Havre. American business developed Liverpool. London was formerly the principal point where unsold oversea products could be shipped with the assurance of finding a sale. The development of the c. i. f. business enabled other ports to emancipate themselves from London as the center of re-export. The opening of the Suez Canal developed the import trade of Marseilles, Genoa and Trieste. The process of decentralization, however, also favors the direct trading of inland manufacturers, wholesalers in seaports and inland with oversea producing territories. This tendency of emancipation from middlemen favors the oversea exporter who is in a position to take advantage of the competition for his products in order to secure better prices. The activity of the oversea exporter must therefore gradually shift from that of a shipper who leaves the sale of his products to European and American importers to that of an export trader seeking to study and exploit markets in which his products are saleable. He will appoint agents and he will seek to adapt himself to the terms of contracts and delivery required by the customers. He will have to accept payments other than through London banks, reduce the minimum quantities of his shipments, make better assortments, ship goods more corresponding to the basis on which they were sold, pack his goods better. Little by little the oversea exporter

may to a considerable extent emancipate himself from the dependance upon the importer in Europe and America even from the point of view of financing, through utilizing the improvement in the bank service overseas enabling him to sell c. i. f. to his customers. The auction system of selling oversea products will lose in importance, even as it never was relatively of equal importance in the United States as compared with Europe, and the long range business will take the place of spot sales at the port of destination.

In the elimination of the importers in the strictest sense of the word, and in the diverting of import trading preponderance from the old import receiving and distributing centers there are certain limitations. These are due to several factors:

a) The great seaports and import trading centers attract importers and middlemen. Import commerce feels the need of warehousing at the seaport and of accepting products where they are landed and seeks to take advantage of the favorable buying and selling opportunities offered by a great import trading center.

b) The persistence of the causes which lead the oversea exporter to ship his goods in an unsold condition and to choose the active import trading center as the destination: the financial dependence of the exporter; this leads him to send goods out on consignment and to accept advances thereon; the dominating influence of auctions and exchanges upon the market price of his product; technical difficulties preventing a long range business in certain oversea products and from certain overseas territories; the establishment in oversea exporting centers of European and American exporters shipping goods to their own branches for sale as spot goods. These auctions and branches of European and American shippers of oversea products are almost always to be found in the great import receiving and trading centers.

c) The import risk. The risk of importing will always provide for the existence of a class of merchants specializing as importers and ready to assume the risk. This risk of importing is borne the more easily the wider selling opportunities the importer has. He will therefore gravitate to a large import trading

center with widely ramified international connections. He will be in that respect in a better position than an importer located in a minor place. The merchant in that respect will be in a better position than a producer requiring oversea products for own use. In some lines the import risk is so great that neither the producer nor an ordinary jobber could reasonably assume it. This refers particularly to products of high intrinsic value and marketed in a variety of qualities, of which the producers and the wholesalers can use only certain quantities in certain grades. An example of this is raw silk, which the silk manufacturer never buys direct from overseas, or tea, which a jobber handles for certain territories requiring distinct qualities.

d) The desire to receive oversea products either assorted or after certain manipulations, as for instance coffee assorted, washed, colored, etc. Here the intervention of importers is essential, particularly for small producers and jobbers with a well defined territory and special trade connections or without required installations or technical knowledge for the necessary manipulations.

e) The need of credit on the part of financially weak buyers and the secure financial standing of the great importing houses. Oversea exporters will seldom be in a position to meet the credit needs of smaller buyers, and the financial strength of the prominent importers will always induce oversea exporters to prefer selling them at lower prices than selling smaller inland buyers at higher prices.

f) The size of minimum quantities which the oversea exporter is willing to ship to an individual buyer precludes in many instances direct purchases by smaller buyers. Smaller requirements must be covered in Europe or America and cannot be covered by direct purchases overseas.

g) Producers and wholesalers cannot wait long for oversea shipments, and they are forced to buy indirect through importers.

h) European and American importers are able to compete successfully with oversea exporters in sales in Europe and America. This refers both to price and to quality. They buy on speculation, for future shipment, and frequently can under-

sell the oversea exporter. Frequently, for instance, Brazilian coffee may be bought more cheaply in Le Havre than in Brazil. By buying up the entire production in certain territories the importers can offer the trade qualities and brands that appeal to it. Towards the end of the exporting season in certain classes of oversea commodities the better qualities can be procured only in Europe and in America.

CHAPTER IX.

The Organization of Public Sales.

1. *Markets and Fairs.*

A *market,* as a place of sale, is the place in which at stated times buyers and sellers publicly aggregate in order to buy and sell goods by private bargaining; the goods may be either brought to the market, changing hands on the conclusion of the transaction, or may be sold for future delivery on the basis of samples shown.

An extension of the meaning of the word "market" has become current largely through the activities of stock and produce exchanges, and is understood to comprehend the existing demand and supply in a given commodity in a given territory. Thus we speak of the coffee market, of the sugar market, of the market in foreign exchange, and the market may be termed dull, active, calm, irregular, etc.

In the Middle Ages, and even during many periods of modern times, the market as a place of sale was the scene of important transactions in international commerce.

Since one of the characteristics of the original meaning of the word "market" was the sale of spot goods brought to the market place, the importance of the market as a public sales institution prevailed as long as the trading in international commerce was largely done in spot goods. Inadequate transportation facilities made the development of long range business in those days very difficult. The opportunities for exchanging communications in time to conclude sales contracts were too limited. The possibility of effecting shipments through third parties with a rational degree of security did not yet exist. The foreign trader was his own shipper. He accompanied the goods as seller to the place of sale, he took them along in his capacity as buyer.

The juridical relations between traders located in two different countries were too insecure and undefined; the traders'

credit responsibility had not yet assumed a high degree of development; the difficulties of ascertaining the credit standing of a trader in international relations had not yet been solved; the capitalization of traders was too insufficient.

The other characteristic of the market, the element of publicity, was an important one in olden days. The traders were bound to employ brokers, sworn measurers, weighers, carriers, etc. The sales were effected in certain publicly accessible localities, streets, squares, etc., during well defined hours and on stated days.

The sales, however, were made by private bargaining. The development of public auction sales of foreign produce on a large scale is of comparatively late origin and had its birth in the large seaports. The commerce of the Middle Ages was very largely a market commerce.

In the seaports, however, the arrival of a cargo was the occasion a display of selling activity, but since no stated time could be arranged for this class of business, the development of market trading did not coincide with seaport trade. When not sold at auction, goods arriving in the seaports were transported to the interior markets for sale there.

The holding of markets offered certain safeguards and a certain freedom of commercial activity in interlocal and international trading. Traders proceeding to and from markets were given certain assurances of freedom from molestation; their persons and goods were exempt from arrest excepting for debts contracted during the market season and in the market place. Local and frontier taxes were suspended, while their place was taken by market or fair dues, and the local guild privileges were extended also to the visiting traders.

The occasion of a market formed in those days the only opportunity of trading in commodities on a large scale. The costs and perils of a journey with merchandise could be borne only upon the assurance that the trader could dispose of a large stock of goods. And similarly only in a public market or fair had the buyer an assurance of covering his demand for a large quantity of goods. The periodic influx of traders in the market place furnished such an assurance for both classes.

Similarly the periodic market formed the only means of establishing current prices for commodities, since an interlocal and international exchange of information was yet lacking, and the inadequate traveling facilities prevented a comprehensive survey of the demand and the supply.

Certain important commercial communities like Venice, Bruges, Lubeck were permanent market places where a large exchange of merchandise took place throughout the year.

The development of safe transportation, the increase of trading privileges, the slowly rising density of population, the growth of a numerous and responsible trading community, the regulation of the communication service with the modest means of the mail coach little by little increased the opportunity of interlocal trading, but it still had for its object the dealing in spot goods. The markets lost their relative importance, but their absolute importance, due to the general increase of the demand and of traffic, rose to even a higher level in the nineteenth century.

The railway and the steamship finally undermined the commercial importance of special periodic markets. The improved means of transportation transformed the world into one large market place. The introduction of the telegraph permitting the publication of production and commercial reports, the broadcast mailing of price lists and offers as well as of samples, the sending of salesmen and agents who could be in constant and instant touch with their principals, though traveling in distant countries, made it possible to survey the demand and the supply throughout the world without the personal contact of traders in a market place. The telegraph and the cable, the railway and the steamship facilitated the prompt exchange of views between contracting parties separated by wide distances and permitted the conclusion of long range business. The improved means of transportation and communication resulted in a division of labor and in the creation of media which permitted the seller to leave the transportation of his goods to third parties without great risk, enabling him to ship merchandise to his buyer through the quickest and cheapest medium available. The concentration of foreign goods in a market place where out of town or foreign

buyers congregate added too much to the ultimate cost of goods, and the modern system of close price figuring could not tolerate this added transportation cost.

In modern times the line of demarcation between markets and fairs has been rather indistinct. Both take place periodically after a lapse of considerable time. Both, with the exception of a few special institutions, admit the widest range of goods, being general markets and fairs. The fairs, however, as a rule cater to the wholesale trade and include very largely raw products, whereas in annual markets the retail traders in manufactured products predominate as buyers. The fairs still persist where the retail traders have not developed into a commercially strong class, but elsewhere they are survivals of an antiquated system and are fast losing importance, certainly from the international point of view.

Of the fairs only a few have retained their importance. Among these the most prominent are the Leipsic Fair and the Nizhni-Novgorod Fair. The importance of the Leipsic Fair persists still in those lines where the personal selection of individual pieces is desirable, as in furs, hides and skins, certain textiles, etc. But a modernized form of fair trading has developed in other lines, particularly where at certain seasons of the year it is necessary to create new ranges of samples which it is desirable to bring quickly before wide strata of buyers. Among these goods are ceramics, glassware, metal wares, musical instruments, paper goods, toys, etc. But instead of bringing the actual merchandise to the fair, the custom is now to exhibit samples, which is done in Leipsic and in Lyons, and the business is concluded for future shipment on the basis of selected samples, the buyers sometime reserving a special style for their own exclusive use.

The three sample fairs which are held annually in France are the Lyons Fair, held in March and lasting generally two weeks, the Paris Fair, held in April and May and likewise lasting about a fortnight, and finally the Bordeaux Fair held during the first two weeks in June.

The Lyons Fair is international in character and has the candid aim of replacing the Leipsic Fair. The Paris Fair is a

national sample fair, and the Bordeaux Fair is a colonial fair. An effort has been made to attract American exhibitors to the Bordeaux Fair. A number of American firms have exhibited at Lyons. Exhibits are admitted into France on the basis of bonded custom entry and must be re-exported within six months. Railways have provided certain concessions for the free return of exhibits from the fair to the port of return shipment. Bordeaux is an important center for the trade between France and her colonies, as fully one third purchases made in France for the colonies are handled by Bordeaux firms, and a similar proportion of exports from the French colonies to France is shipped to Bordeaux firms.

An important fair is held annually in Irbit, in Siberia, where traders from European and Asiatic Russia, Caucasus, Central Asia, Persia, and from many foreign countries are wont to congregate. Other modern markets are found in the Near East and India, connected with the influx of pilgrims to religious festivities, and in the interior of Africa where there are still many economic reasons for their existence. Native traders are prominent in the markets of the Orient and of Africa. In some of them—as in Mecca and Medina—native traders operate to the exclusion of foreigners.

The development of market trading has led to the creation of varieties of markets of local importance only, such as weekly and daily local markets, trading in municipal market halls, special markets, etc. A few of the special markets are of international importance, being visited by foreign buyers or patronized by foreign sellers.

2. *Auctions.*

Auctions, sometimes called *public sales,* are sales of merchandise to highest bidders in stated localities at stated times, by public invitation. The merchandise sold is generally fully or partly open for inspection at the place of sale. The word "auction," coming from the Latin word meaning to augment, is based upon the practice of each successive bid being an increase over the preceding bid.

There are varieties of auctions. Some take place by decree of courts and tribunals, others independent thereof. There are voluntary and compulsory auctions, auctions in marketable or unmarketable commodities, the instances of the latter being damaged shipments which cannot be regularly marketed, and for which the auction must create a temporary artificial market. Finally there are wholesale and retail, and there are regular and occasional auctions.

Regular auctions are such as are chosen by owners of the goods as a regular selling medium for specific merchandise, taking place once a year, or once a month or once a week, or daily throughout the year, or whenever a sufficient quantity of merchandise accumulates. Occasional auctions are such as are necessitated by unforeseen irregular occurrences, which usually place the seller into a disagreeable situation, with the auction as a remedy. Such auctions may be concentrated in certain localities and held there regularly or at stated periods, but in each instance the source of the merchandise will be accidental.

In international commerce the important auctions are those which take place otherwise than through decrees of courts, voluntarily, on a large scale, with the wholesale trade as customers, and principally in marketable merchandise.

The origin of auctions of oversea products on a large scale is to be sought in Holland. The Dutch East Indies Company is believed to have initiated this selling method. Other merchant companies in Holland and in the United Kingdom imitated the system. When the cargo ships of these companies arrived, it was the custom of offering the merchandise in lots to the highest bidder. These companies by virtue of dominating the trade in the producing territory had a sort of a monopoly on certain products and ran no risk of their customers availing themselves of opportunities to fill their demands elsewhere. The supply of the imported products was always limited, prices were high, the c. i. f. business had not yet developed, so that it was impossible to cover the demand before the arrival of the goods. The auction sale was based on the delivery of spot goods and could have attained development only before the development of the c. i. f. business. It is nowadays of importance only in those countries where it had developed before the days of modern

commercial practice. It persists by a law of inertia and the establishment of commercial usage, and to some extent as the result of the organization of international commerce which places oversea shippers into financial dependance upon importers in industrial counries, and in some articles as the result of the difficulty of selling them at long range.

London and Amsterdam are the chief places for selling oversea products by means of auctions. In London the auction is the medium for the sale of wool, skins, tallow, tea, coffee, spices, fruits, hardwoods, ivory, indigo, and many colonial products; in Amsterdam cocoa, coffee, tin, coal, indigo, etc. Many of these products are sold exclusively by auction on their first importation, and are only later sold wholesale and retail in the regular course of trade. From London and Amsterdam the auction method has spread to Liverpool and Rotterdam, fruits, rubber and hardwoods being sold at auction in Liverpool, coffee and tin in Rotterdam. Outside of Holland and the United Kingdom the auction method in the sale of oversea products has not greatly developed, excepting the hardwoods auctions in Le Havre and the wool auction and the ivory auction in Antwerp, the latter chiefly because of the choice of that method by the Congo government.

Occasionally auctions of oversea products are held overseas. This is the practice mostly in British and Dutch colonies. Thus auctions are held in Dutch East Indies for the sale of coffee, tin, indigo, wool auctions in Australia and South Africa, indigo auctions and tea auctions in Calcutta, tea auctions in Colombo.

Other products that are frequently sold at auctions are fisheries products, woods, wines, fruits, etc. Manufactured goods are not as a rule sold in regular auctions, excepting cheap cottons in Shanghai, where the importers dispose of them regularly at auction.

Manufactured goods, however, are frequently sold at occasional auctions. This is principally the case in shipments from Europe and America to oversea countries, when the shipment is damaged in transit, or in the case of unlucky consignments, or in order to introduce a new brand of goods. In some over-

sea importing points such auctions are so frequent that they are held on stated days each week.

The auctions of oversea products are generally carried on by brokers acting as auctioneers, and less rarely by the owner or the selling commissioner. In the latter case it is generally a trading company which has equipped itself for auctioning of oversea products, as the Nederlandsche Handels Maatschappij or the Hudson Bay Company in London. Official persons, such as the *huissier* in Belgium, may be present at the auction in order to see that the transactions are carried out in conformance with the existing legal regulations, thus assuring the rights particularly of the principal who may be located abroad. In England, in addition to the license which the auctioning broker must take out, the commercial prestige of the broker is relied upon to insure the observance of the interests of all parties concerned, and the auction system is not otherwise regulated.

The time of the auctions is generally published in advance in the newspapers, the lists of goods to be auctioned are circulated among interested parties. The wholesale trade is regularly in receipt of these lists. The lists are made up by the auctioning broker. In addition to a full description of the goods, these lists contain the sales conditions to which all contracting parties must submit. The description of the goods contains an enumeration of lots by quantities, qualities, weights and measurements, indicating the origin of the goods and the name of the ship on which they arrived.

Other conditions may refer to the determination of weights and measurements, the drawing of standard samples, the pricing, the minimum successive bid increase, the terms of payment, the buyer's obligation to accept the goods, the rights of the seller in the case of the delay or the failure on the part of the buyer to accept the goods, the right of the seller to reject bids, or to demand guarantees from the buyer, the fixing of the auction fees, the manner of their payment, regulations for the adjustment of disputes, etc.

The individual lots are described by indicating their marks, their warehouse numbers, quantity and quality data of various sorts, auctioneer's fees for various lots, and adjustment rates for defects or shortages. The auction lists generally specifically

reject a guarantee for the correct description of the goods auctioned.

The division into lots is effected in order to facilitate the disposal of the entire quantity of goods sold. It is the rule to put together into single lots uniform qualities and to arrange quantities so as to put them within the range of even smaller buyers.

Before the auction the goods are generally exhibited, or the prospective buyers are afforded an opportunity of inspecting them in the warehouse. Where this is not practicable, samples, in the case of furs and skins random sample bundles, are exhibited either in the auction premises or the brokers' salesrooms, or in some lines, as fruit, the packages are opened in the auction premises and samples are distributed among the bidders. The auctioning broker as a rule declines to guarantee the correspondence of samples with lots. Since opportunity is given the prospective buyer to examine the goods, as a rule the buyer's right to make claims with regard to quality is limited, and in any event it expires a few days after the acceptance of the goods.

A buying broker is generally employed to make bids. The buyer usually has a pre-arranged code with his broker which serves to protect his buying tendencies from coming to the knowledge of competing bidders. Certain auctions, such as wool auctions, make the employment of buying brokers obligatory. Orders to buy in behalf of absent bidders may be carried out by commissioners. In the latter case they must furnish the bond of a local firm. Strangers bidding at auctions must employ not only a broker but also a local commission man as a bondsman. Most conditions of sale in auctions insist upon the use of a local firm as middlemen, either by granting the seller the right to reject the bid of a buyer who is unknown to him, or to demand his depositing immediately the full purchase price, or part of the purchase price as a security, or furnishing the guarantee of a responsible local firm. In fact the specific local usages in bidding would make it difficult for a stranger to bid without the services of a local middleman. The sale is generally made to the highest bidder. In case there is more than one highest bidder, and a further increase is unobtainable, they draw lots. It

is occasionally stipulated that the highest bid must at least equal a stated minimum price. After the auction the buying broker furnishes his principal with a sales memorandum indicating the salient points of the transaction.

The delivery is generally effected ex-warehouse, through the acceptance of warehouse warrants or through delivery orders, This is generally done against payment. As a rule the buyer deposits 20 to 25% of the sales price immediately after the auction, receiving for it a weight memorandum that goes with the warrant. In some instances, particularly in Holland, the buyer receives credit, which is seldom more than 90 days. The acceptance of the goods must be effected within a specified time, and until the expiration of that time warehouse expenses are chargeable to the seller. The risk of warehousing, however, is assumed by the buyer immediately after the sale, excepting that it is generally stipulated that in the case of the total destruction of the merchandise sold through fire the contract is cancelled.

Very strict stipulations are provided for the case that the buyer proves unable to meet his obligations. The seller has then as a rule the right, after notifying the buyer, to cancel the contract, to sell the goods either privately or again by auction, holding the original buyer responsible for a minimum price, and for the expenses of the new sale and loss of interest, while any accrued extra proceeds go to the seller.

The principal auction fee, or *brokerage,* is borne by the seller. Legal regulations or the usage of organized commerce determine its extent. The brokerage is generally graduated in accordance with the volume of sales and with the value of the auctioned goods. Sometimes the auctioneer assumes the entire cost of the auction. Certain taxes are paid by the buyer.

After the auction the auctioneers publish the results attained, by issuing a statement, and it is generally customary to publish reports of auctions in special publications known as Market Reports or Trade Records.

Some organizations have official auction rooms with sample rooms and warehouses, as the Wool Exchange in London, or the Nederlandsche Handels Maatschappij in Rotterdam. Some auctioneers have their own auction rooms.

The advantages and disadvantages of auctions. Auctions, as a selling medium, offer the vendor a number of important advantages. The auction method provides a concentration of the demand and an easy sales medium, facilitates a large turnover within a brief space of time, stimulates the buyers to increased competitive bids and thus enables the vendor to attain better prices, and the sales conditions protect the interests of the vendor. Particularly concerns having little experience in local usage or routine or technical knowledge of the goods, or banks which receive goods on consignment, through the employment of expert brokers to conduct auctions are able to sell merchandise to best advantage.

The principal disadvantage of auctions from the vendor's point of view is the pressure that may be exercised upon the sales price through accidentally poorly frequented auctions, or through the ease with which an unfavorable market situation, as illustrated by the lack of eagerness on the part of visiting buyers, may be taken advantage of to lower the sales price. This may take the form of a panicky drop of the market price. It is seldom possible or practicable to withdraw the goods from the sale in the face of such an emergency. Particularly in China and Japan have the native traders made a practice of shrewdly utilizing the disadvantageous position of the seller in the case of the forced sale of merchandise at auction. The danger of a poorly frequented auction is increased in places where a large c.i.f. business in the merchandise concerned has developed. The dividing of the merchandise into lots according to quality sometimes leads to unfavorable sales of the poorer lots.

From the point of view of the buyer the advantages are the following: the auction furnishes him a good insight into the market situation, enabling him to shape his bids accordingly. He can purchase smaller quantities of the goods desired by him at a relatively low price. He can get oversea products at first hand, or from the immediate commission agent of the original shipper, with little risk, since the goods are on the spot, frequenly all assorted, open to inspection. This is particularly the case in auctions and commodities where at stated times the merchandise is marketed authoritatively for international commerce, being meanwhile warehoused in unsold uncondition. The buyer is

then in a position to pick his goods from the world market stock, and the auction prices are not only momentarily of importance but form, with minor fluctuations, the basis of the bulk of transactions for the commodity concerned until the next auction.

As against these advantages, we may note the following disadvantages from the point of view of the buyer: One of these is the possibility of too high a price through too eager competitive bidding or secret machinations of the seller. This may be counterbalanced by the buyer's good judgment and coolness in bidding. Generally the seller in a well frequented auction is at an advantage with regard to the buyer. This is seen in his ability to impose strict sales conditions. The buyer must also remember that he pays an appreciable extra for the fact of obtaining spot goods. It is true that he buys practically at first hand, but so many brokerage fees and expenses and warehousing charges accumulate in the auction business, particularly as the seller's very reason for selling at auction is the desire to obtain a higher sales price, that he would frequently find it cheaper to cover his needs through the riskier medium of c. i. f. business.

Price increases within an individual auction, or within a series of auctions either held in quick succession or periodically at intervals, may be also erratic or unjustified, placing this business upon a somewhat speculative basis.

The practice of auction sales of international importance in certain merchandise in certain import centers has been a powerful stimulus to the growth of these import centers as factors in international commerce.

3. *Dutch Auctions.*

Dutch auctions as a medium of the sale of oversea products are a development due to certain regular auctions of Sumatra tobacco held in Holland in the latter part of the nineteenth century which turned out disastrously to the sellers. The unfortunate results of these auctions led the Dutch East Indian tobacco growers to drop the auction medium for a time and later to adopt a modified auction system known as Dutch auctions. This is the auction form in which the seller indicates a price which

he desires to secure, invites counter bids, and keeps lowering his own price until a bidder is found, or until he can lower it no more. Thus is Sumatra tobacco sold in Amsterdam, as well as Java coffee, skins, etc. Rubber is similarly sold in Antwerp. The output of many oversea mining and plantation enterprises is similarly offered. The seller having indicated the price he desires to secure, and publicly offered his goods for sale invites counter-offers from buyers. The difference between this form of Dutch auctions and regular auctions lies in the fact that prospective purchasers do not come together and the offers are received in writing, so that no buyer knows his competitor's offers and it is impossible for him to gradually adjust his bids to the existing competition. There is no public control of the adjudication of the sale, nor is the seller bound to accept the highest bid, excepting in the case of tobacco auctions in Holland which provide that the bids be opened in the presence of a notary and the highest bid be accepted. And the seller frequently apportions the merchandise sold among several bidders, while in the Antwerp auction sales of rubber it is the practice to invite some of the highest bidders to a personal meeting in order to induce them to outbid one another. In the case of Dutch auctions it is the practice not to offer the merchandise by assorted lots, but to sell entire shiploads.

Otherwise Dutch auctions differ little from regular auctions. They are carried on by means of a printed list indicating the name of the seller, containing a description of the merchandise and detailed sales conditions patterned after the sales conditions of regular auctions. Either the owner of the merchandise or a broker distributes the lists. The services of brokers are employed to appraise the goods or to draw offers from prospective buyers. Brokers are then provided with samples which they submit to buyers whose bids are invited. The merchandise is accessible to inspection, usually in the sample room of an auction establishment. The bids are delivered sealed. The buyer submits his bids through a broker. At the expiration of a stated period the seller opens the sealed bids. The results are published even as the results of the regular auctions.

The advantages and disadvantages of Dutch auctions. From the point of view of the seller, Dutch auctions have the ad-

vantage that the accidental poor attendance, such as may occur in a regular auction, cannot exert the same depressing effect upon the sales price. Whether there be many or few bidders, the individual bidder at a Dutch auction is not influenced by the bids of his competitors in making his bid, unless the prospective buyers get together and make common cause. The seller, however, not being bound to accept any bid, may protect himself by ignoring the results of the auction, which eventuality does not affect the market price in the same measure as an unfortunate auction .

The favorable effect of the eager buyers outbidding one another in a regular auction is lacking in the Dutch auction. But another factor may lead to higher prices, and that is the uncertainty of the individual bidders as to the bids of their competitors. And this is at the same time the great disadvantage of the Dutch auctions from the point of view of the buyer. He cannot commence with a small bid and gradually increase it. He is groping in the dark. If he is anxious to secure the merchandise he must make the highest bid possible, and even then he lacks the assurance of securing it.

Another advantage from the point of view of the seller is that he does not divide the merchandise into lots with the risk of having poorer lots remain on his hands, or of being forced to dispose of them at a loss. Only very large buyers, as a rule, participate in Dutch auctions. And herein lies an advantage for the buyer, and an advantage for the great importers. Manufacturers and domestic wholesalers are confined to the purchase of stated qualities and quantities and cannot, as a rule, buy up large shipments of mixed qualities.

4. *Competitive Tenders.*

Another public medium of commercial transactions is in inviting *sealed tenders.* The object may be the furnishing of goods or of services. Bidders are invited, on the basis of published conditions, to submit sealed tenders undertaking to furnish the goods or the services in question at a price submitted by them. The design is to secure the lowest bid, or the most favorable all around bid conforming to the conditions, and the

business is adjudicated after the examination of the tenders to the successful bidder.

Governments and other public bodies in the first instance, as well as many private enterprises and corporations such as private railways, etc., are in the habit of inviting sealed tenders for the covering of their requirements. The reasons for this practice are manifold. Administrative organs may not have that insight into commercial routine of the supply and demand in the markets of the world which is expected of commercial firms, or it may be desired to avoid even the appearance of partiality. Invitations to submit sealed tenders may be issued broadcast, or be restricted to a list of responsible firms compiled for this particular purpose, or may be limited to firms of a certain nationality. It is advisable for exporting concerns to seek to be included in such lists on file with all foreign administrative organs making a practice of inviting sealed tenders, or at least to provide for being informed of such invitations as soon as they are issued.

If it is the purpose of auctions, regular and the Dutch variety, to attain the most favorable results from the point of view of the seller, the purpose of public bodies in inviting bids is to secure the most favorable results from the point of view of the buyer. The lowest price is the desideratum of the buyer. The tendency of underbidding in sealed tenders may frequently keep away responsible firms and lead to undesirable results. For this reason it is frequently the practice to limit the invitation to a number of responsible concerns, or not to accept the lowest bid because it is the lowest. It is in countries with an undeveloped home industry that foreign producers and exporters may most successfully bid for government business on the basis of submitting sealed tenders.

Invitations for sealed tenders in most countries are governed by administrative regulations. They are generally published in official and private newspapers, and in case of countries in which the nature of the materials or services required necessitates foreign co-operation, time is given to foreign consuls, commercial attachés, importers, etc., to cable to their connections abroad and to induce foreign interested parties to submit their bids. It is important that consulates and official bodies at home charged

with the promotion of national commerce interests in foreign countries lose no time in acquainting the home trade with all possibilities of participating successfully in submitting sealed tenders to foreign governments, municipalities and other bodies asking for bids. The conditions, particularly the time limit of submiting the bid, may make cabling in detail necessary, or the appointment of a legal representative for the required formalities may appear imperative.

The invitation for sealed tenders generally contains all details of the materials to be furnished, with frequently elaborate provisions for tests, quality standards, etc. The conditions and specifications may be so detailed and voluminous that they are frequently contained in a special book and the invitation mentions the book and where it may be obtained.

Many countries have elaborated general conditions and standard specifications which govern all tenders for various departments of the government, such as the Army, the Navy, the Railway department, and issue from time to time additional specific conditions relating to the specific demand. Sometimes the invitation to bid relates to indefinite quantities of material, the tenderer being required to offer indefinite quantities, within certain limits, or indefinite percentages of the entire quantity of material wanted against definite orders given from time to time in due course.

The tenderers may be invited to submit a blanket price covering the entire material, or unit prices for various specified items, or a basic price may be indicated, and the tenderers invited to approach it as far as possible. In material the shipment of which is distributed over a large period of time fluctuation clauses may be permitted.

Many countries require that bids be submitted on special blanks, or be accompanied with revenue stamps. Cable bids are only rarely admitted, and frequently the appointment of a local representative is insisted on. In some countries the extension of the time limit is easier to obtain than in others. Many impose the submission of bonds and guarantees for performance.

Participation in the submission of sealed tenders is often limited. Frequently foreign firms are excluded, so that a foreign bidder must secure the co-operation of native firms. Oc-

casionally middlemen are excluded and only the actual manufacturers are permitted to compete.

The reading and the examination of bids may be public or private. Verbal conferences with the bidder's representatives may be encouraged or frowned upon. In many undeveloped countries conditions exist which do not permit a self-respecting foreign manufacturer to stoop to methods required to secure the business, and here it is customary to enter into some clean-cut arrangement with a local contractor, leaving it to him to participate in those local customs with which a foreigner cannot properly concern himself.

The adjudication of the bid may be effected verbally, when the officials select purely the lowest bid, all other things being equal. The next step is the conclusion of the contract in which case it is customary to have a representative with a valid power of attorney on the spot. The power of attorney may be in some cases cabled, being legalized by the consulate general of the purchasing government, the cablegram being sent generally through the consulate general in question. In some instances the arrangement may be made for a representative of the purchasing govrnment to conclude the contract abroad with the successful bidders direct.

5. *Exchanges.*

Exchanges, bourses or *boards of trade* are associations of business men meeting regularly, usually every week day during certain hours, in specified localities, for the purpose of negotiating business in commodities or in auxiliary commercial services. The name refers both to the assemblage and to the place of assembly.

The place itself is generally a closed room, though there are several bodies of this character meeting in the open, as the New York Outside Securities Exchange (the Curb), etc. The exchange is a development of the market idea. The essential difference between the market and the exchange is that the commodity dealt in is not in evidence in the exchange, excepting in the form of samples in produce, coffee or wool exchanges, etc. The buyer does not see the actual goods. The goods are merely

named. This can be done naturally in the case of commodities of certain standard qualities which are handled in large quantities, as various grades of cotton, etc. Quantities of these goods are sold, but no specific lot is insisted upon. The greater the degree to which goods may be dealt in without any identification of particular lots, the more they are suitable for exchange operations. This being to a large extent true in the case of financial securities, one share of common stock of a given company being exactly equal in value to another share of common stock of the same company, or one bond of the same issue being identical with another bond of the same issue and denomination, the exchange business in financial securities is more prevalent than in merchandise. On the other hand by the establishment of certain standard types of certain produce such as cotton, wool, coffee, sugar, wheat, rye, oats, etc., a similar effect is obtained artificially for these commodities, and they are thus largely traded in on exchanges of special types.

Apart from the business in futures, the produce exchange business has somewhat of the character of a market, business being concluded on the basis of samples.

Manufactured goods are least suitable for exchange operations. The quality of these is determined by individual characteristics; the buyer must inspect these, and the sale depends upon a special confidence created in the mind of the buyer by the representations of the seller. The importance of the individuality of the contracting parties and of the merchandise itself precludes the handling of manufactured goods on exchanges. The identity of the goods here generally precludes substitution, which is the rule in produce.

The exchange system, by a regular and organized meeting of business interests, facilitates the conclusion of commercial transactions and a clear survey of market conditions. Herein is the principal merit of the system. But the regular conclusion of huge transactions without the actual transfer of commodities has led to speculation in futures on a large scale, which occasionally has been the cause of many economic evils. For transactions effected for purely speculative purposes, in order to benefit by a price difference, have produced a market within the market. Usually, of course, actual market conditions guide the

speculative market in the fixing of prices, but the morbid sensitiveness which the speculative market exhibits towards all occurrences of even passing moment which can affect the prices leads to violent fluctuations of prices. The speculative market in its price fixing is therefore not the ideal expression of actual market conditions, but rather an occasionally disquieting and disturbing element.

In international commerce, exchange operations are of moment from the point of view of trading in bullion and in foreign exchange (affecting the market rate of bills in international settlements), and in produce of various kinds, futures and options on cotton, wool, coffee, sugar, etc., affecting the market price of these commodities.

CHAPTER X.

The Sales Contract in International Commerce.

1. *The Form of the Contract.*

In analyzing the fact material in international commercial transactions with a view to developing a systematic presentation of the principles of international commerce from the merchandizing point of view, rather than as a branch of national economics, we discover a central technical process, namely the *sale*.

Our review of the organization of international commerce, with the discussions of economic and political factors concerned in its development, and of the various media used in the carrying on of the individual transactions of international commerce, was a preliminary step to the discussion of the central fact in international merchandizing, namely the conclusion of the sales contract, with an analysis of its forms, contents and the rights and obligations established by it between the parties thereto.

From the point of view of the commercial laws of most countries the conclusion of contracts relating to commercial transactions is not dependent, as far as its validity is concerned, upon any hard and fast *forms*. Commercial usage requires this independence, since it is the practice to use a variety of forms or in many instances to conclude business informally. A sale may be effected verbally or over the telephone and be binding on both parties. Even silence may be construed by usage to mean a concurrence establishing a contract relationship. In the case of such silent agreement, however, there is generally a supplementary basis in some written document. In some lines of business goods are sent for inspection or selection, and the failure to return same within a specified time may be regarded by commercial usage as acceptance and the conclusion of a sales contract.

The manifest possibility of errors and misunderstandings, however, has led to the almost universal adoption in commerce

of written documents for the purpose of definitely determining the details of a contractual relationship in the sale of merchandise, even where a verbal agreement precedes it. This is even true of cases when merchandise is bought, sold and delivered on the spot, as in the case of purchases at auctions, or in exchange transactions. And similarly verbal understandings between buyers and the representatives or traveling salesmen of the seller are *confirmed* by the selling firm.

If such a confirmation contains any points of divergence from the verbal agreement, and the deviations are against the interest of the other contracting party, it is invalid without the acceptance of the latter. But if the confirmation merely fills out details left open in the verbal agreement, these details are generally assumed to be binding on the other contracting party, provided they do not conflict with commercial usage or laws. Thus it is the practice of effecting sales through traveling salesmen and later confirming same on a printed form containing on the reverse a series of *sales conditions*, some of which may have been unknown at the time to the buyer. Ordinarily these sales conditions do not conflict with commercial usage, and only rarely, in commercially backward countries, will the buyer object to them. It is, therefore, advisable in all cases for the salesman or agent to acquaint the buyer with the sales conditions of the seller, by calling his attention to them. The return of a duplicate sales contract form containing such a list of conditions on the reverse, with the signature of the buyer, shows his positive acceptance of same, even if these sales conditions deviate in some respects from the verbal agreement with the salesman.

In the general run of sales transactions in international commerce, whether in sales for own account or for the account of others, the conclusion of contracts is effected by correspondence. It generally consists of a *letter*, a *counter letter* and a supplementary *bill*. The basis of the contract is generally a letter containing an offer of the seller or a letter containing an order of the buyer. The offer may be *firm*, that is binding upon the seller, or it may be a *free offer* subject to conditions, such as prior sale. The firm offer usually binds the seller for a certain specified time determined by commercial usage or special agree-

ment; the firm offer may be made subject to certain eventualities such as the possibility of securing freight accommodation at a certain price. Only the firm offer may be considered as an offer providing a basis for a contract. Free offers, or offers subject to prior sale, are considered merely as invitations to buy, without binding the seller.

Both the offer and the order require an *acceptance* by the other contracting party before forming the basis of the contract. The offer being accepted by the buyer, leads the buyer to send a written *order.* The order being accepted by the seller, leads the seller to send the buyer a written *acceptance* in one of the various forms used by the trade, such as a *sales memorandum,* later followed by a detailed *sales contract form,* and when the goods are shipped by *invoice.*

The counter letter generally briefly cites the contents of the offer or of the order as the case may be, quoting the date and the document file number, or in the case of the order it may limit the acceptance to a specified lot or quantity contained in the offer.

If the acceptance letter contains clauses which do not correspond with the original contract basis, either contained in the original offer or order or determined by commercial usage, the acceptance is not perfect and creates a counter-offer, unless the deviation is of immaterial nature.

But when the seller allows some time to elapse before sending the buyer a sales contract or *shipping notice,* and material deviations occur in same from the contractual basis furnished by the order, the practice is to regard it as a new sales offer accompanied by shipment of the offered goods, and only when the buyer approves it and accepts it, though aware of the deviations, does he signify his agreement, perfecting the contract. As an example may be cited the shipment of sizes deviating from the order, perhaps in order to save time, the desired sizes being unavailable and the seller assuming the responsibility of shipping sizes that he believes will answer the buyer's purpose.

An *invoice* accompanying the letter is considered a supplement to the contents of the latter. Sent alone, it takes the place of the letter. The contents of the invoice, including the printed

clauses thereon, are considered equivalent in importance to a written communication. If the invoice changes the existing contractual conditions in the interest of the seller, other than the filling in of details left open in preliminary correspondence or verbal agreements, it is usual to have the buyer's express approval of the deviations before considering the latter as binding upon him. Still the invoice is a document the contents of which form an integral part of the contract and are of great importance in litigation as shifting the burden of proof from one contracting party to the other. So-called *pro forma* invoices, sent out for the purpose of information and not for the purpose of *billing,* may be either binding offers or non-obligatory offers in accordance with the wording of the letter accompanying same. Invoices accompanying consignment stocks are documents creating in a sense a trust relationship.

In addition to ordinary letters accepting orders, there are also used *printed forms,* such as *sales memoranda* and *contract forms* covering the sale. These forms differ from ordinary letters in that they are separated from miscellaneous communications and have for their purpose and object the fixing of the details of the business transaction exclusively. In ordinary correspondence the exchange of letters leads to the conclusion of a commerical transaction; the contract forms mentioned, however, are based upon business already concluded. A sales memorandum, as the word indicates, is a brief document containing the following data: the date, the name of the seller, of the buyer, in certain cases of the broker, a description of the quality and an indication of the quantity of goods, price, delivery, terms of payment, etc. In its simplest form the sales memorandum is not an addressed communication. Occasionally it is, however, expanded into a sales letter with several printed clauses, addressed and ending with a formal salutation and signature. Contract forms usually contain a series of very detailed stipulations, generally printed on the reverse. As distinct from contracts of non-commercial character, they are not always made out in duplicate and signed by both parties, though the most approved form is in duplicate, with a clause at bottom marked *"Accepted,"* for the signature of the buyer.

The order form known as *"indent,"* used generally in the

Far East trade, is treated specially elsewhere; it is not indicative of a definite business conclusion until acceptance has been signified by the seller.

2. *The Sales Contract and Commercial Usage.*

Under *commercial usage* is understood a practice adopted by commerce in the carrying out of commercial transactions and so generally adhered to that a deviation from it appears exceptional. A practice which is frequent, but is not the rule, may be referred to as commercial usage, but is not strictly so. There are usages which have no reference to rights and obligations, and while of no importance as affecting contracts, they are worthy of note by those who cultivate foreign markets.

But commercial usages affecting rights and obligations, insofar as they do not clash with statutory or common laws of the countries concerned, are given due weight by courts of all commercial nations.

Commercial usages have conventional validity either *locally*, in a defined locality, or *universally*. Some usages are peculiar to a specific place, such as the bazaar in an Oriental city. They may extend to the entire commerce in a given locality, or to certain types of commerce. So there may be special usages for markets, auctions, exchanges, for one class of merchandise, for export or import, or for both, for the commission business, for freight and insurance. Finally commercial usage may govern relations between certain groups of persons, as for instance between traders only, or between traders and non-traders.

One of the indispensable premises of a valid commercial usage is the agreement between contracting parties to abide by it. This agreement is generally tacit and need not be specifically expressed. It is valid, unless one of the contracting parties specifically exempts it, otherwise it is understood that the contracting parties will abide by prevailing commercial usages, whether they are known to them or not.

Commercial usage may affect contractual rights and obligations from two points of view. Commercial usage may supplement a contract in regard to points not touched upon in the agree-

ment, and secondly commercial usage may interpret expressions and designations used in the contract.

In some countries chambers of commerce, exchanges and other public bodies (which in Continental Europe, and in countries where such associations are patterned after the Continental European types, have an official or semi-official character) are charged with the task of codifying commercial usages. Such compilations are of importance and interest, but they lend no permanent validity to commercial usage. Commercial usage is characterized by its actual existence. Codification has no value where usage changes or lapses into desuetude.

But in some countries commercial associations have successfully compiled comprehensive statements of current contract conditions with an authoritative interpretation of terms current in their territory. Such compilations define current usage and furnish commerce with a guidance in formulating contracts. Thus they furnish model contract conditions which are frequently referred to as commercial usage. But this term is not strictly correct in such application. They are rather rules and regulations adopted by bodies with an exchange or chamber of commerce organization.

In countries where such bodies have an official status, and even in England and United States with regard to their own membership, exchanges of various classes and chambers of commerce or boards of trade may elaborate forms of contracts for current use. All exchange transactions, for instance, are effected upon the basis of certain regulations adopted by these bodies, and these regulations assume the rôle of autonomous laws.

Outside of these autonomous regulations, in free commercial intercourse, it is customary to mention expressly that the contracting parties are willing to abide by the regulations of certain bodies, otherwise it must not be assumed that these regulations are valid for them, unless, indeed, these regulations merely recount existing commercial usages. The express mention may be made by the insertion of a clause in the contract, such as "subject to the rules and regulations of the Chicago Board of Trade, or of the New York Underwriters Association," or as the case may be. In England it is customary to procure blanks of such organizations and to prepare the contract on such blanks.

Such practices are very convenient and time-saving and afford a certain amount of mutual security to both contracting parties. They save the parties the trouble of composing detailed contract clauses dealing with matters on which commercial usage is authoritative. Thus regulations of commercial associations themselves may attain the force of commercial usage, substituting sound practice for objectionable practices, and a uniform practice for chaotic practices.

Such regulated conditions of contracts have as a rule the tendency to induce the traders to adhere to them. But side by side with this tendency, there may be a tendency on the part of third parties to compel their adoption. These third parties are generally factors of economic importance. Thus the great British importers have brought about the adoption of many contract conditions in the import trade into the United Kingdom. And in Germany combinations of producers and sellers in kartells have gone even further, and forced upon the trading community the adoption of "model sales contract conditions" which are anything but "model."

3. *Contract Obligations Relating to the Nature and the Quality of Goods.*

The quality of the goods may be determined in the conclusion of a sales contract in several ways.

1. *By means of the examination and inspection of the entire lot sold or of a sample.* The inspection of the entire lot sold, for the determination of the quality of the goods, may be effected at the place of sale. It is therefore a practice prevalent as a rule in the sale of spot goods, as for instance in auctions and market places. But the inspection may be followed also by long range business, the vendor obligating himself to ship the merchandise as inspected by the buyer. The inspection of the merchandise, insofar the vendor has not through the use of fraudulent devices made it impossible for the buyer to learn the true quality of goods, makes later claims on the basis of quality impossible.

In sales on trial, if the buyer after the lapse of a specified

time presents no objection to quality, he is bound to accept the goods and is debarred from bringing up claims as to quality.

In the case of so-called *"bargains in bulk,"* when merchandise is sold *"as is,"* the buyer inspects the goods before purchase, no agreement is made as to quality, and the buyer cannot bring up claims regarding quality.

b) *Samples,* on the basis of which the quality of merchandise referred to in the contract is determined, may be of various kinds: a small lot may be drawn from a large quantity of material, as for instance a small bottle of oil; or a small piece taken from a large whole, as in case of textiles (here the sample is called *pattern*) or a *test piece* cut off from a steel bar or rod, or a whole article such as a tool or a machine may be used as a sample and the contract may relate to duplicates, or individual component parts that are to be combined into a whole, as parts of an electric installation.

The inspection of a sample as the basis of business conclusion plays an important part in international commerce. It is, however, not always possible to furnish samples of goods. There are some articles of so individual a character that samples cannot be produced, or other articles, as lumber for instance, where it is of little use to furnish samples. In business transactions between distant points sometimes it is impossible to await the sending of a sample, or the seller, as in the case of many oversea products, cannot agree to bind himself for several months in advance to furnish products identical with the sample.

But in many products certain grades and qualities are determined as *standards,* and samples of these standards are deposited where they are accessible to the trade, and in this case purchases may be made by reference to these standards in accordance with designations adopted. So the Liverpool Cotton Association has classified cotton and established grades as determined by samples which can be examined at the headquarters of the Association. Purchasing of this character is termed purchasing on the basis of samples. The seller in such cases is obliged, unless other private agreements or special commercial usages prevail, to furnish goods in accordance with the sample. As a rule the accordance must be thorough. But in some instances deviations are permitted within certain limits if the nature of the

merchandise does not permit of a perfect conformance. A sample may be used to indicate the general character or type of merchandise, it being understood that the merchandise need not be identical with the sample. Such samples are known as *type* samples. If the merchandise sold is not uniform in quality, samples must be prepared in such a way as to demonstrate the average quality of individual portions. In many classes of merchandise this may be effected by means of a mixture, in others a number of individual samples is required, as for instance in skins and furs.

Close to purchasing on the basis of samples are sales contracts based upon quality as already once supplied by the same vendor to the same buyer or as supplied by a third vendor. *Trial orders* are placed with the aim of basing future transactions on quality as supplied. This is often the case in goods where the showing of small samples fails to give an adequate idea as to the run of a shipment, as for instance in the case of lumber.

While the vendor generally furnishes the sample, it may be also supplied by the buyer. This renders the seller's task a little more difficult in furnishing goods fully conforming to the sample than in the case of samples of his own make-up furnished by him to the buyer. This is particularly true of cases where the goods must be first manufactured to conform with a sample. The buyer's proneness to raise unfounded complaints may be greatly encouraged thereby. If the exporter selects to be careful, he will in such cases prepare a typical counter sample of his own and secure the buyer's approval of it, before he ships the goods. Commercial usage frequently admits certain deviations from samples where an absolute conformance is not possible. In some classes of merchandise there are stipulated deviation limits agreed on as a regular occurrence and mentioned in the sales contract.

After the conclusion of the sales contract the sample may be taken possession of by the vendor or by the buyer or left in the custody of a third party. Or the vendor and the buyer may each take a sample which is identical in composition with the other. The vendor retains the sample when it has been sent him with the order. If the vendor submits the sample, the usual practice is to have the buyer retain it. Buyers in export mar-

kets, when shown samples by traveling salesmen, naturally desire to retain the sample, since the salesman may leave before the ordered goods arrive. The samples given by the vendor to the buyer are sometimes called counter-samples. In the case of some materials these samples are so voluminous that the buyer is able to utilize them in making up his own sales samples. It is occasionally the practice to charge for such extensive samples. Some New York textile houses make a charge or from $50 to $500 for their sample collections and credit the amount to the buyer on his purchase.

If business between the vendor and the buyer has been negotiated by a broker, the broker as a rule retains the sample, at least until the business is concluded. Some European and oversea exchanges and similar organizations provide for depositing of the samples in their care. This is frequently done in the case of goods in which the quality must be strictly adhered to, while substitutions in samples may be easily effected, as for instance in grain. It is the custom to deposit such samples in sealed packages.

In addition to the examination of the sample for the purpose of determining the quality, the vendor may also assure the buyer that the goods possess other properties which cannot be determined by an examination of the sample. Or certain properties may be expressly eliminated. In such cases we have a qualified purchase on the basis of a sample.

c) *The quality of merchandise may be indicated by description.* This is done when the properties and the quality of a merchandise are determined by a description of its characteristics, perhaps with the aid of sketches and drawings, as well as by an enumeration of all the circumstances which allow the buyer to form a judgment with regard to quality. Among the latter circumstances may be mentioned the statement as to the origin, the time of production, the manner of production, etc. The characteristics denoting quality are, of course, different for every class of merchandise. The outer form, the surface finish, optical properties, the odor, the taste, the weight, the density, the elasticity, the tensile strength and other mechanical properties, the durability, etc., are only a few of the elements which may express the quality of a commodity. Such quality descriptions

as "middling," "A-1," etc., are not properly classed among descriptive characteristics, not being directly descriptive.

A special description may be necessary for each individual sales contract, as in the case of furniture made to special designs, or it may be based upon regular model sales conditions issued by a commercial body, compelling both contracting parties in the latter case to limit themselves to standards therein enumerated. These standard qualities may have special designations to differentiate one from another or may not.

In the iron and steel trades in the United States certain standards have been agreed to by the manufacturers, such as American Railway Engineers Association standard specifications for steel bridges and railway materials, while in the shipbuilding trade Lloyd's specifications are standard in many countries.

d) Even where the merchandise is individually described, commercial usage frequently demands *special designations*, as in the case of yarns, spirits, wool, grain, the designations being only understood by reference to usage prevalent in the particular trade. These numbers and trade designations are neither accurate literal descriptions, nor scientific standards as mentioned above, but a compromise between the two.

A few quality characteristics may be found worthy of special mention.

The relative weight of an article or merchandise may determine its quality, or its class, as in grain and in yarns. The use of the relative weight of merchandise in descriptions of merchandise for the purpose of fixing its quality in sales contracts we find in grains (grain samples), yarns (yarn number), silk, skins, leather, paper, oils (specific weight), rails (40-lb., 60-lb., 90-lb. rails, meaning rails weighing so many pounds per yard). The relative weight may be indicated by stating how many linear units go to a weight unit, or how many pieces go to a weight unit, as in the case of prunes, or how much a cubic measure weighs, as in the case of grains, or how much a number of linear units weighs as in the case of silk and of rails. Dimensions as denoting quality need not be based on weight, as for instance in glass plates, lumber, etc., being based upon quantity and surface measurements.

The yield on percentage basis or otherwise forms a quality

description in the case of many raw products. Thus we have the yield in refined sugar per 100 weight units of cane sugar, or of raw sugar derived from beet sugar, or of silk derived from cocoons.

The content of a certain element in the merchandise is a somewhat different characteristic from the foregoing. The content may relate to a valuable and to a worthless material. Thus we may have the sugar content of a beet, the polarization (pure sugar content) of sugar, the alcoholic content of spirits and patent medicines, etc., the metal content of ores, the carbon content of steel, the impurity content of oils. We speak also of the mixture contents in dry-liquid commodities, such as oleaginous seeds, etc. The content or the degree of the admixture of impurities relates always to the content of the valuable material or to the total quantity of the merchandise.

Deviations in weights and dimensions in this connection are subject to settlement.

e) The use of *commercial designations* to denote the quality of merchandise may be based on special circumstances or on commercial usage and general convention. The vendor may designate various classes and qualities of his merchandise by marks or numbers which may have become known in the trade concerned and the buyer may have seen samples to which these marks or numbers refer. Or the designation of certain conventional names to denote strictly defined qualities and classes of merchandise may have become current in commerce, possibly through adoption by a commercial body such as some wool or cotton or produce exchange.

Thus we can divide quality designations in two groups, the first referring to the merchandise of individual firms, the second those used generally. The first include all trade-marks which by names, letters, symbols or pictures, sometimes by a combination of figures or colors distinguish the products of one firm from those of others or an individual product of one firm from other products of the same firm. In the raw products business the vendor uses quality designations to stamp his individual assortments, in oversea trade the shipper uses a special shipping mark. From the custom of branding the quality designation into metal wares or upon packings of many other wares some quality

designations are named *"brands,"* though this designation has very generally come to be synonymous with *"make."*

These special quality types of individual concerns are distinct from general quality types, or standards and grades which are currently employed in commerce or are meant to be employed as such. These standards and grades may either generally characterize certain qualities, or appear as exactly fixed qualities. In the latter case they may still permit a certain variation scope and need not be observed with absolute exactness. They are frequently determined by special bodies authoritative in certain trades, and at times, as in the case of metals dealt in on the London and the New York Metal Exchanges, certain brands may be cited as meeting certain standards. Such are called *fixed standards* as contrasted with the commercially current standards which are based solely on commercial usage.

Fixed standards frequently are based upon average qualities. For this reason they often bear designations such as "average," "middling," etc. The standard usually represents the average quality direct. Or an average may be struck on the basis of a rising scale of standards and a special average standard type may be thus arrived at, as for instance "Santos good average" in coffee.

The idea of average quality is usually based upon commercial usage. If in such case a sales contract contains a clause requiring the supply of fair average quality, we have an approximate determination of quality. Commercial usage is satisfied in such cases when good merchantable quality is furnished.

Upon commercial usage are based also such descriptions as superior, good, medium, common, or fine, fair, middling, ordinary, with all the intermediate gradations, insofar as they do not refer to certain fixed types in particular lines, or to certain specifically known brands.

The mention of a quality in the contract generally means that every package corresponding to the shipment item must be of a quality conforming to the type. Or it may be understood that the average of all packages shall conform to the type. An illustration is found in the cotton trade, when in the first case "even running" and in the second case "average" furnish a supplementary indication of the intent.

Designations of quality do not always refer to identical qualities. These may change from place to place, or from time to time. In the cotton and the coffee trades it is customary to make up new samples every season. Even the brands of individual firms may vary from time to time, but the firm should notify its customers of such changes. Such variations in correspondence between designation and the quality are justified where the merchandise depends upon a variable type of raw product which may not be always available in sufficient quantities of uniform quality. In commodities which may vary in quality dependent upon the outcome of crops sometimes the variation is noted in demanding or offering "fair average quality of the season."

The identification of certain qualities with certain designations is of great importance in international commerce. It greatly facilitates the sale of oversea products at long range. It also enables exporters and producers to make qualities of merchandise as supplied by them currently known, these qualities assuming a definite value. Thus the trade in an export market may demand galvanized sheets equal to "Apollo" brand, indicating a certain standard of quality established by the introduction of galvanized sheets of that brand. When a certain brand of merchandise has attained such a position of standard in a given market, it has secured a basis for a growing and established trade.

Under the law of most countries purchases on the basis of conventional commercial designations are considered purchases on the basis of a sample or of description, the use of the designation, such as middling, or superfine, etc., being regarded as a description. With regard to purchase on the basis of a sample, distinction must be made whether the sample is an individual one or represents a type. The first is the case in the use of commercial designations taken from a sample or pattern book or in the case of samples submitted in individual transactions, and generally in the case of a conclusion of business on the basis of trade-marks in manufactured goods. In raw products, or in commodities for which exchanges and commercial associations fix generic type designations, purchases are understood to be made on the basis of type or generic samples.

Purchases at random signify that the merchandise may be delivered irrespective of quality, in the condition in which it happens to be. But commercial usage understands that partially damaged merchandise can only be delivered under a random purchase clause if the damaged merchandise is still per se a normal article of commerce. In oversea imports it is customary to stipulate that sea damage must not exceed 10% of the entire shipment, or waste may be specifically exempted by a contract clause or by commercial usage.

Purchases of merchandise with a definite quality basis. In such purchases it is understood that the price is based upon a specific quality, but that the vendor may furnish other qualities either freely or within certain percentage limits. In the case of furnishing inferior quality, a provision may be made in the contract reading "any lot below..... may be returned," and it is understood that in the case of quality below that established as a basis the vendor must reimburse the buyer, and vice versa. This is doing business "with mutual allowances." The amount of the allowances may be determined by contract or by appeal to sworn experts or appraisers.

Sales contracts with future specifications. The contract determines the class of goods. The buyer is granted the right to specify at some future time before the filling of the contract (the time limit being generally noted in the contract conditions) the qualities desired, the quantities of each quality, and the distribution of the shipments required by him. Such contracts are generally concluded for large quantities of material, leaving it to the buyer's choice to "call" for the shipment of quantities and qualities successively needed by him. The buyer has a right to specify assortments to suit himself. Thus the buyer may contract for the delivery to him within one year of 50,000 kegs of nails, and indicate from month to month what sizes and qualities he desires. A variation of this is where the buyer and the seller agree upon a definite quantity of each quality which the buyer must accept and the seller must furnish during a certain period, but the buyer retains the choice of assortments from time to time, though in the aggregate a definite quantity of each quality must be shipped and accepted. The determination of the conformance of the goods, as regards quality, to the contents of a

sales contract must be effected, under certain conditions either stipulated in the contract or prescribed by commercial usage.

The place where the buyer must examine and determine the conformance of the goods to the stipulations of the sales contract in order to be able to bring up valid claims for non-conformance, is usually the *place of performance,* or that place where the goods pass in accordance with the contract from the power and possession of the seller into the possession of the buyer or of a person authorized by the buyer to accept the goods, thus terminating the contractual obligations of the vendor. The moment the vendor has delivered his goods he is free from further cares about them. This is not the case, however, where goods are turned over to a forwarding agent, even if the forwarding agent has been selected by the buyer.

Theory and practice in international commercial law have almost without exception declared the law of the place of performance to be applicable to sales of merchandise. The domicile of the vendor is generally to be considered as the place of performance. The true performance of the obligations of the contract is accomplished when the goods are shipped by the vendor and the receipt is only the later result of an already completed performance. It is therefore the vendor's domicile or the location of his business which constitutes the place of performance.

The *place of performance* is distinct from the *place of examination.* It becomes important to determine the latter, in order to judge whether a claim for improper or defective delivery has been made in time. Especially in regard to sales made from inland to a distant point, the place of the actual delivery to the consignee must be considered as a place of examination, for it is usually only when the actual disposition over the goods is acquired that the vendee has the opportunity to discover their condition.

This principle is subject to the following exceptions: a) where the parties have expressed a clear intention otherwise; b) where an agent or forwarder has been designated to receive the goods; c) where it has been agreed that the vendee assumes all the risk upon the delivery of the goods to the carrier, the

railroad or steamship company becoming the agent of the vendee; d) where the goods are not to be received by the vendee or his agent, but are to be immediately delivered to a third party.

Contracts in relation to large workshop enterprises (such as building of machinery and apparatus) are regularly subjected to the system of law under which the work is performed.

A provision is often found to the effect that "the place of performance is X," X being where the article is manufactured. It does not follow from such a provision that the parties have mutually submitted their rights to an objective system of law. This is true of cases where, for instance, machinery has been manufactured in one country and installed in another (F. Meili, *"International Civil and Commercial Law,"* translated and supplemented by Arthur K. Kuhn).

Usually the goods must be delivered to the buyer in the community where he maintains his place of business. For this reason ordinarily this is the place where the buyer must determine the conformance of his goods as to quality to the conditions of the contract.

The exceptions to this are the following:

1. Where both of the contracting parties have their place of business in the same town, and the buyer who has sold the merchandise to a third party instructs the seller to deliver the goods in the town where the third party is located. Here the place of the ultimate customer is regarded by commercial usage as the place where the conformance of the merchandise to the order as regards quality is determined. This is done particularly in the case of goods which cannot be taken out of the outward packing before reaching destination.

2. Where both of the contracting parties reside in different localities and the buyer directs that the goods be delivered to his customer residing in a third locality.

In the export trade it is frequently agreed between seller and buyer that delivery must take place where the seller resides and the quality of the goods determined right there, the examination being left to a third party. Thus in the iron and steel trades and in shipbuilding materials a regular inspection service is maintained in the industrial countries, the customer paying the cost of the inspection, and the inspecting certificate is regarded

as a sufficient evidence of quality. When the buyer personally appears at the place of sale and the goods are ready, as in the case of auctions, the determination of quality conformance is generally effected at the place of sale.

When the seller sends the buyer a so-called *reference* sample showing the quality of the goods, the purpose being to save the buyer the trouble of examining the goods, commercial usage expects that the buyer assume the responsibility for damage in case the goods as delivered do not conform to the sample; if the buyer, assuming that the goods conform to the sample, has sold the goods elsewhere without having thoroughly examined them, he still has the right to demand indemnification as soon as his customer notifies him of non-conformance. If the defects, however, are noticeable on the sample and the buyer has accepted the sample, the buyer must accept the goods without finding fault with the quality, particularly where the purpose of the sample is to acquaint the buyer with the quality of the goods.

The time limit for determining the non-conformance of the goods as to quality to the contract generally expires after the acceptance of the goods, unless the seller undertakes an express guarantee, or provisions to the contrary are made in the contract. It is customary to state in the contract within what period any claims as to defects in quality will be considered by the seller, but commercial usage provides that where it is customary to sell the goods to third parties in the original packing, the buyer is entitled to make claims for re-imbursement as soon as he receives a complaint from his customer.

In some cases, as in machinery, defects may not be capable of determination until the machine has been in operation for a considerable period. It is customary in articles of this character to make a suitable express provision in the contract.

In order to maintain his rights the buyer must only bring up his claim without loss of time as soon as he discovers the defect. The form in which he brings his claim is immaterial, excepting in certain products in which commercial usage and the regulations of cotton, wool, fur and similar exchanges prescribe it.

The buyer has the obligation to examine the goods thoroughly when delivered. If he finds defects, it is frequently **cus-**

tomary to have the goods examined by sworn experts or testing institutions. In cases where he accepts the certificate of the examining inspectors at the place of shipment he has no further right to make claims. The examination for defects on delivery is effected by taking random samples, where possible, and where the merchandise is of uniform composition. In many instances it is impossible to examine the goods otherwise than by actual use or consumption of a part of the shipment.

The tendency of commercial usages and commercial agreements is to prevent unjustified claims for defects and to protect the interests of both the buyer and the seller, basing actions in such matters on common sense and fair dealings. For this reason a number of regulations are current for the determination of defects and are observed by force of commercial usage in oversea transactions.

It is particularly in oversea transactions that differences with regard to the quality of the goods occur between buyer and seller and the settlement is very difficult on account of the great distance separating the contracting parties. It is in oversea trade customary to have the goods examined by the addressee, if possible in the presence of a representative of the seller. This is done overseas in the importation or goods from Europe and America generally in the custom-house in the presence of the sales agent. A similar proceeding is customary in the importation of oversea products into European countries or United States. Where samples are to be taken from the shipment to determine its quality, it is generally provided what percentage of the packages are to be inspected for samples. The quality may be determined by sworn experts, or certificates of authorities may be obtained in some materials. These certificates may be provided by the seller before shipment or by the buyer after delivery.

The first group of certificates includes *certificates of origin, testing certificates* in iron and steel production, *certificates of analysis, official certificates of inspection* as in the case of American meat products, etc. Particular importance is attached to certificates which attest the conformance of the merchandise to some general quality types or standards, as the inspector's certificate in the case of cereals, the government certificates in the case of

the conformance of certain Australian products to established standards. Governments may, for the sake of promoting export, guarantee the quality of certain exported products. Such a step has been urged recently for the exports of "Made in America" goods. Commercial usage and private agreements may establish that the seller's authoritative certificate as to quality be considered final.

The second group of certificates are those which by agreement of the contracting parties are obtained after delivery. This includes so-called *surveys* through sworn experts.

As far as the consequences of defects found in goods is concerned, commercial usage provides for a rejection of the goods only in the case of very marked defects or deviations in quality from that established in the contract. Commercial usage rules differently in case of various merchandise and various markets as to the rights of the buyer; he may reject a portion of the shipment and accept the balance. He may demand a shipment of merchandise to take the place of the defective shipment, or as in the case of most oversea products he has the right to demand reimbursement for the quality difference. But as a rule certain degrees of variation are allowed the seller and the variance between the quality shipped and the quality as established in the contract must be marked for a valid claim.

As a rule the seller of manufactured goods is more strictly obligated with regard to the quality clauses in the contract than the seller of produce.

4. *Contract Obligations Relating to the Quantity of Goods.*

The *quantity* of the merchandise which the seller obligates himself to deliver to the buyer is indicated in the contract either by accurate or approximate measurements.

This indication is made, in accordance with the class of merchandise, in length, surface, cubic or weight dimensions, or in quantities of units. The measurements are generally indicated by specifying quantities for different qualities or packing units or both.

Private agreements and commercial usage determine largely

the method of measuring the goods. Of particular importance is this in the case of goods delivered in a packed condition, when the contract must clearly stipulate (unless commercial usage renders this unnecessary) whether the weights are gross (that is include the packing), or "legal" (according to the practice of several Latin-American countries, including the interior wrappings but excluding the outer packings) or net (not including either packing or inner wrappings).

In many cases even accurate indications of quantity permit a deviation within the limits of a percentage, which may be either stipulated in the contract or established by commercial usage.

In the case of approximate measurements in the contract, the deviations are frequently determined by commercial usage or are based upon special agreements. In produce dealings 5% is the usual limit of permissible quantity deviations. In the commerce with manufactured goods the naming of approximate quantities is resorted to in order to give the shipper the opportunity of adapting the quantity of material furnished to the dimensions of packages or the capacity of the transport media, in order to utilize them to the best advantage.

The strictness of requirements regarding the agreement of the performance with the contractual stipulation in regard to the quantity depends largely upon the class of the goods. In valuable unit articles, each of which may be the basis of a commercial transaction, the quantity must be strictly observed; in articles of mass consumption a slight surplus or shortage cannot greatly affect the success of the business, and a greater latitude is permitted. In spot dealings exactness in quantities can be more or less readily determined, and it is therefore more strictly insisted on, whereas in oversea shipments quantity deviations are often unavoidable and are therefore tolerated within certain limits.

Where the quantity of the merchandise which the seller is to furnish is indicated by packing units, such as cases, bales, barrels, or make-up units such as bolts of cloth, or packages of nails, it is necessary to indicate the weight of each unit. This may be accurate or approximate, in the latter case being calculated on the basis of average.

Average measurements permit a rather wide divergence in

the individual packages, but the total deviation must not exceed the limits established by commercial usage, generally about 5%.

Commercial usage frequently interprets certain accurate measurements as approximate. This happens particularly in the case of liquids shipped in cooperage, when an individual package customary in commerce holds approximately a certain quantity of liquid.

Finally a contract need not indicate the exact measurements of the merchandise, as in the case of lots of goods selected by the buyer individually and reserved for him. Thus he may buy a quantity of merchandise in bulk, or select at an auction certain lots the exact dimensions of which are not given.

The question whether the seller has met the requirements as to quantity stipulated in the contract is determined by the quantity as delivered at the place of destination. The question as to what quantity must form the basis of the invoice is an entirely different one and will be discussed at the proper time under the heading of invoices.

The examination of the merchandise as to correct quantity can be made either in order to determine whether the seller has fulfilled his contractual obligations, or to arrive at the exact basis for the cost of the merchandise, or in order to verify the seller's figuring. Generally the first of these purposes can be combined with the two others. The examination as to the quantity of the merchandise, made in order to see whether the seller has fulfilled his contract or invoiced the goods properly, must be made under certain conditions prescribed by usage, in order to be valid.

a) *The place of the examination.* Even as with regard to the nature of the goods and their quality, the place for the buyer to examine and ascertain the quantity of the goods delivered is the place of destination. But since losses in quantity occur more frequently than quality defects in the course of transportation; and since furthermore it is difficult to determine upon delivery whether the loss of quantity occurred during transportation or before; and finally since authoritative certification as to quantity can be so readily obtained at the point of shipment, very frequently commercial usage prescribes the point of shipment as the place where the shipment must be examined as to quantity.

b) *Time of examination.* Very few commercial countries

prescribe a time limit for the filing of a claim for shortage, but commercial usage demands that the buyer examine the shipment for any shortage as promptly as possible and file his claim without delay, and private agreements and sales conditions may demand this examination to take place within a certain specified time limit. The shortage may be already indicated in the seller's invoice, and need not necessarily lead to the filing of a claim.

c) *The method of examination.* There are sometimes considerable variations in results arrived at by measuring and weighing merchandise by various apparatus or due to the practice of measuring and weighing merchandise in round figures. It is of importance whether the whole merchandise has been accurately measured or weighed or an average struck on the basis of a percentage or on the basis of the weight of individual packages. Commercial usage prescribes a certain tolerance for such variations.

Some merchandise suffers natural variations in measurements in the course of time. There are highly hygroscopic substances such as silk and pulp, in the calculation of which commercial usage requires the recognition of a certain moisture content. The weight may be based upon absolutely dry or air dry condition. The weight in absolutely dry condition is determined by taking samples, drying them, and calculating the proportion. The addition of the permissible moisture content to the absolutely dry weight gives the commercial weight of the merchandise. Other goods such as leather, yarns, silk fabrics may be artificially weighed with fats, colors, starch, barytes; these too are regulated by commercial usage. Natural variations in weight and measurements after delivery has been effected are generally borne by the buyer.

Where the examination as to quantity takes place on the basis of a different system of measurement than that used by the seller, commercial usage prescribes a comparative calculation with the aid of approved conversion tables.

Certificates with regard to the quantity of merchandise are given with more or less authority by transport media, such as railways, steamship companies, warehousing companies, custom houses, official weighers and measurers, etc. The certificate

may be a separate document or form a part of a Bill of Lading, warehouse receipt, custom house receipt, etc.

The furnishing of such a certificate by the seller may be regarded by commercial usage as a final proof of quantity delivered. Even where not finally decisive it is a very important proof. In order to be able to bring a valid claim for shortage the buyer must furnish authoritative certificates. Contract clauses and commercial usage may bind him to furnish such proof, otherwise he is held by the invoiced quantity or the certificates of the transporting media, even when the place of delivery is the place of the performance of the contract. In the last named case, if the buyer provides authoritative measurement certificates, the latter are finally decisive.

Consequences of delivering quantities not in accordance with the contract. In the case of an immaterial shortage commercial usage requires the buyer to accept the shipment. In the case of material shortage he is not bound to accept it, and while refusing it, he maintains his rights of claim against the shipper for the whole contract, or if he accepts the shipment in partial fulfilment of the contract then in regard to the balance. If a material overplus is shipped, the buyer has the right to reject the overplus. Commercial usage prescribes certain rules for the commerce in oversea products in this connection, which will be mentioned in due course.

5. *Contract Obligations Relating to Packing.*

Instructions as to *packing* may be expressly given to the seller in the sales contract or may be tacitly understood, the latter particularly on the basis of commercial usage. Such instructions may be given even subsequently, provided they work no hardship on the seller, or the buyer agrees to reimburse the seller for the packing material already employed or purchased in accordance with the contract.

If the manner of packing is not contractually prescribed, the seller is required by commercial usage to ship the goods in packing strong enough and suitable for the means of transportation employed, using ordinary commercial diligence.

Even where the transportation risk is borne by the buyer,

the seller's commercial prudence will lead him to pack his goods in a reasonably adequate manner, in order to have the goods reach the buyer in a satisfactory condition and in order to thus retain the buyer's good-will. But in those cases where the contract is not considered as fulfllled until the goods are delivered, the seller's interest in the question of proper packing is manifest.

With regard to packing the following usages are of importance:

a) *The goods may be shipped unpacked or in a loose immediate wrapping.* This is the case in articles of considerable size for which it is too expensive to provide a complete packing and which at the same time are capable of withstanding outward damage, as machines, wagons, etc. Other articles may be loaded loose upon the transport medium, as rails, ties, wire, etc. Some of these articles may be either carefully or loosely burlapped. Grain may be shipped in bulk. Oils may be shipped in tank vessels or tank cars.

b) *The merchandise may be protected by outer packing.* The three most important methods of packing are *cases, sacks* and *barrels. Cases* may be solid or in the nature of *crates.* Crates are cases with free space between boards. They serve to protect the merchandise only from being crushed or knocked against by bigger articles; machines, bicycles, furniture, etc., are thus shipped; or crates of special styles are used for merchandise which requires an influx of air to keep it in condition, as eggs. *Sacks,* mostly made of jute or gunny, serve for the packing of dry articles which may be shaken, knocked against or crushed without suffering appreciable damage. A species of sack is a *bale,* which is a method of packing reacting elastically to pressure, or knocks, and may be rolled or thrown without suffering damage. It is firmer, stronger and larger than a sack. The merchandise is generally pressed into it, or first pressed and then baled. Bales also include the packing into burlap or sacking of several hard units, as knocked down furniture parts, which are packed and sewn into sacking. Sacks or bales may be also made of matting, straw, hair, palm leaves, or a combination of two such wrappings with a textile wrapper, and in such instances they have special names, as for instance *fardels,* which are bundles from the Red Sea districts, or *serons,* oblong packages

from South and Central America, the outer wrapping of which is raw hide put on and sewed together in green condition, forming a compact package after shrinking.

Barrels and sacks are the usual packing form for liquids, but they are also used for commodities of pasty or fatty consistency, as paints and greases, or for dry articles such as nails, potatoes, etc., or for pulverized materials such as flour or powder. A variety of this packing are metallic *drums* or *cylinders* used for gases, acids and inflammable materials; *hogsheads, tierces, tubs, pails* and *buckets* are varieties of this class of packing, which is generically called cooperage and is roughly divided into *tight* cooperage and *slack* cooperage.

Other packages are cans or tins, jugs, baskets, cardboard boxes.

c) *The merchandise may be additionally protected by interior wrappings.* Interior wrappings may have the aim of reducing the force of jars and knocks, as excelsior, straw, paper, shavings; or to prevent the penetration or liquids as zink and tin lining, oilcloth, tar cloth; intermediate layers may be inserted between the goods, as leaves in fruit boxes; each unit may be wrapped in paper or straw, or several may be wrapped together. The practice of enclosing publicity mater has nothing to do with interior wrapping, and must be indulged in with care, as in some countries it either contravenes customs regulations or leads to unforeseen heavy customs duties payable by the addressee.

The outer packing contains inscriptions, particularly *marks* and *numbers*. The mark consists of a figure or of characters or a combination of both, with numbers, and is intended to characterize the goods as originating from a certain firm, either producer or trader. This is very important for the period that the shipment is in the hands of third parties, the carrier or the freight forwarder or the warehouseman. It is necessary to use such marks as cannot be readily mistaken for the marks of others. One letter is therefore generally insufficient. Good indelible marking ink is generally used. Goods on which it is difficult to place such marks are marked by means of tags that are wired to same. The numbers usually serve to identify individual packages, and are therefore mostly consecutive.

The marking of packages may be of particular importance

in re-selling. The re-seller may lay much stress upon the manufacturer's original marking, or he may desire to suppress it altogether, prescribing a special marking, or removing the original marking and substituting his own for it.

Other markings may have reference to the origin of the goods, such as "Made in U. S. A.", "Made Abroad", etc., or relate to warnings, as "Fragile," "Use no Hooks," generally in the language of the country of shipment and of the country of destination. Finally packages are marked by the shipper with the address of the buyer, generally giving the place of destination in full and using prescribed marks for the addressee's name.

It is particularly important to pack goods properly for export. The so-called export packing must protect the goods from the increased perils of oversea transport and yet it must combine with this added security such characteristics that will serve to avoid superfluous freight and customs charges. The export packing must not conflict with regulations governing packings imported into the country of destination or into an intermediate country in transit. The goods must be so packed, moreover, that the buyer may ship them to his customers without repacking them, if necessary.

The increased perils of sea transport include the possibility of damage through contact with sea water or with the moist sea air (as in the case of leather goods), through lateral jars, jolts and knocks due to a heavy sea, injury in loading on board ship and unloading, operations which even in well equipped ports are connected with greater risk than in railway transportation; finally pilfering, carelessness and other perils due to the lesser degree of liability on the part of marine carriers as compared with land carriers. To denote that a packing adequately protects the goods from such perils, we speak of *"seaworthy packing."*

Seaworthy packing in cases means the use of cases made of strong wood, provided with iron or steel hoops, well closed, with zink or tin lining that is preferably soldered all around, or with wax, oil or tar cloth lining. The case may be nailed together, or still better screwed together. The sides of the case should be dovetailed. The case must be packed tight, so that the goods cannot settle or leave vacant spaces within. Bales must include several envelopes, one of which at least should be fully water-

proof; they must be hooped with iron or steel hoops, and these should be protected against rust. Sometimes the whole bale is painted to heighten its water resisting qualities (painted cloth). The goods should be pressed together as tightly as their nature permits, the outside hoops should be drawn together tightly. Valuable goods shipped in sacks are placed in double sacks. Cooperage used for the shipment of dry articles is subject to the same suggestions as are laid down for cases. In the case of some liquids shipped to tropical countries it is customary to protect them from excessive heat by placing the original cask into an "overcask." Similarly it is customary to ship kerosene oil in cases containing two or four tins.

With regard to saving freight and customs charges in the choice of packing it is to some extent opposed to the principle of providing the maximum of protection for the goods. Freight charges are made on the basis of the weight or of the dimensions of the goods including the packing, customs charges are levied (where they are not ad valorem) upon the gross or the net weight of goods (in some instance upon the so-called "legal" weight, being the net weight plus the weight of the immediate interior wrapping).

Where the freight charges are levied upon the weight of the goods, and the customs charges upon the gross weight, or on the basis of a fixed deduction for the packing, the tendency will be to choose a light packing. Thus the goods are packed in bales instead of cases, or in light cases instead of heavy cases and a saving is effected, but on the other hand in so doing the shipper adopts a package affording less security. The dimensions of the packing may be lessened by cutting down the mass of interior wrappings. Whether to save expense or to afford increased protection to the goods, the question must be decided in accordance with the character of the goods and of the business. Generally speaking, the more valuable the goods, the more attention will be paid to the packing, the cheaper the goods the more desirable will it be to save expense. At any rate every effort must be made to economize in freight and custom duties, provided the safety of the merchandise is not jeopardised.

Import regulations affecting the packing problem may relate to the packing itself or to the inscriptions thereon. Some goods

may be admitted either exclusively or on favored terms when shipped in a specified packing. Inscriptions on packings are subject to regulations in many countries with the purpose of protecting the home trade from unfair competition. The ignoring of these regulations may lead to custom fines and delay in delivery.

With regard to shipment from the port of delivery to ultimate destination the exporter must remember that transportation conditions are not always as well developed overseas as in the home country; it costs too much money to repack the goods at the port of delivery, particularly as many goods are subject to deterioration and shrinkage if exposed in tropical countries The packing must correspond with the conditions of further forwarding from the port of delivery. In some cases certain weights and dimensions must not be exceeded for individual packages, and the shape of the packages, as well as their dimensions, must be suited to the country of ultimate destination and its means of transport. Maximum weights for transport on camel back are packages of 250 to 260 lbs., for mule back 165 to 175 lbs., for human carriers 50 to 55 lbs. If the goods are to be re-sold without re-packing, and it is necessary to re-sell them by sample, the seller should ship the samples in a separate case. He is obliged to do so only if the contract specifically calls for it or where commercial usage demands it. But it is a sensible and paying measure and it calculated to lead to increased sales if followed.

Particularly important for the re-sale of goods in original packing is the choice of packing in accord with the desires and needs of ultimate customers.

6. *Contract Obligations Relating to Style and Make-Up.*

Under *style* or *make-up* we understand the outer form given to merchandise without affecting its properties or characteristics, taken in conjuction with its immediate wrapping and packing, if it figures as a component part of the merchandise as a sales object. The seller may put out his merchandise in a special form, outfit or packaging, in order to promote the sale thereof, or to increase its value to the user; the buyer may have similar

aims with regard to the merchandise. The sales contract frequently contains clauses agreeing to a certain style or make-up of the goods.

Among the numerous varieties of such clauses may be mentioned the buyer's demand for labels of a certain color or bearing the maker's trade-mark, the quantity of units that go to an individual package, the form of bottles and bottle caps, etc., etc. The make-up of the goods and the manner of their packaging is of considerable importance, particularly the lower the level of the traders is to whom the goods are finally sold. Backward nations find a great stimulus in making their purchases on the basis of attractively made-up goods which appeal to their taste, often paying more attention to this external feature than to the quality of the goods. Such buyers also show an attitude of suspicion towards new goods and look for accustomed labels and external marks. Middlemen supplying such markets must consider this attitude of their ultimate trade and insist on careful attention to such details from their source of supply.

Failure to put up and to make up goods as agreed in the contract has the force of a quality defect, for the make-up is a component part of the article of merchandise as a sales object. The object of the contract is not only the merchandise itself, but it also includes all the externals agreed upon.

Merchandise made up or put up at variance with instructions may lose in value to the purchaser, even if the style furnished is saleable per se. The buyer might desire to accustom his trade to a certain outward form of the merchandise. A different make-up may be entirely useless to him. The buyer has by commercial usage the right to refuse to accept goods put up in a manner conflicting with his instructions.

CHAPTER XI.

7. Contract Performance.

A. *The Time of Performance.*

The time of contract performance is generally speaking the time when the party to a contract accomplishes those acts which mark the fulfilment of his contractual obligations.

In international sales contracts the performance of the contractual obligations on the part of the vendor, with special reference to his principal duty, consists in the accomplishment of all acts leading to the surrender to the buyer of the right to property to goods and of their possession, as intended in the contract.

The time of the performance of the contract, as far as the vendor is concerned, is therefore that time when he effects those acts which place the object of the sale at the disposition of the buyer.

As a rule this transfer must be effected to the buyer immediately, or to someone authorized by the buyer to take possession. In such cases the passage of the property rights and of possession is clearly established.

The goods, however, may have to be shipped from the place of sale to their destination, which may be at a considerable distance from the place of sale, and must be, with that end in view, turned over to third parties for transportation. Here the vendor performs his contractual obligations by turning over the goods to the transportation organs, and while the goods have passed out of his possession, they have not yet come into the possession of the buyer.

In the case that the goods are in the possession of a third party, being warehoused for instance, the transfer of property rights may be effected by the declaration of the original owner that they are henceforth to be considered the property of the buyer.

The buyer is not obliged to regard such a declaration as performance of the contract, unless such a course is prescribed in the contract or is current commercial usage.

Such surrenders of property rights are effected by means of warehouse receipts, warrants, bills of lading, etc. Here we must examine into the question whether such surrenders through a declaration or other documents constitute the principal act in the performance of the contract or merely a supplementary act. Very frequently the latter is the case and the actual turning over of the merchandise "bodily" constitutes the principal act.

Thus in c. i. f. contracts for the supply of produce shipped from overseas commercial usage regards the time when the goods are turned over to the freight carrier as the time of the contract performance, while in the shipment of manufactured products from Europe and America the transfer of documents to a bank against acceptance is generally an act supplementing the actual transfer of goods. The general conditions of sale, printed on the reverse of the c. i. f. and c. & f. contract form of a prominent American steel exporting concern read, in part, as follows: "The tender to the purchase or his authorized agent, of shipping documents, consisting of proper bills of lading, and, in the case of c. i. f. sales, negotiable insurance certificates, constitutes full and final delivery on the part of the seller, and entitles it to the immediate payment in full for goods shipped, without prejudice to the subsequent adjustment of just claims on the part of the purchaser." While apparently the presentation of documents to the bank forms the principal act, as a matter of fact the principal act is in the transfer of the goods, of which the documents are the proof, forming thus a supplementary act in the transfer.

In some classes of merchandise, as, for instance, in the British metal trade, the transfer of certain documents constitutes performance of the contract. Here so-called "warrants" are used as commercially negotiable and transferable documents and form an object of trading in themselves. The material transfer of possession of the goods is a secondary matter, as both the quantity and the quality of the material are authoritatively certified in the warrants.

The time of performance as intended by the contract is that time when the contracting party is bound by contractual stipula-

tion to fulfil his obligations. Since the place where this is done is the place of performance, it is manifest that the time of performance always relates to acts to be effected at the place of performance.

Contractual obligations with regard to delivery may be effected either immediately or at some future time. This permits the grouping of deliveries under prompt (immediate) and under future deliveries.

Where the contract contains the obligation on the part of the vendor to deliver, and on the part of the buyer to accept, at once, respectively within a few days—which in commercial usage is regarded as equivalent to "at once,"—we have before us a mutually prompt transaction. But the vendor may obligate himself to be ready to furnish the merchandise immediately upon buyer's call, and the buyer may have the right to postpone the exercise of his call until some period either stipulated in the contract of otherwise agreed upon, but in any case within a reasonable time after the sale; here we have a unilateral obligation to immediate performance which is binding on the vendor only.

In commercial usage, *"prompt", "at once", "soonest", without delay", "as soon as possible", "immediately"* and similar stipulations generally permit the vendor a reasonable time to prepare the goods for shipment and to put them underway. This is also true of expressions *"ex warehouse", "ex stock", "spot."* Commercial usage prescribes the interpretation of these expressions for various markets and classes of merchandise, indicating in some instances the next business day, or the second following business day as the time of the contract performance within the meaning of the contracting parties.

Contracts where prompt shipment is demanded, or where the vendor declares that the goods are already on board ship, are instances of prompt or immediate transactions, provided the place of shipment is regarded in the contract as the place of the contract performance. Where the destination is regarded as the place of the contract performance, this would constitute shipment for delivery in the future.

It is customary in the sale of goods which are already afloat to regard the place of shipment as the place of the contract per-

formance, and such is the actual commercial usage in the shipment of products from overseas to Europe and America.

In the shipment of produce from overseas prompt shipment is frequently insisted on in the contract, or indicated by the vendor's declaration that the merchandise is being loaded, or is already on board ship, or is ready to be loaded, the usual way being to state "shipping or to be shipped by....." or "Bills of Lading dated or to be dated....." Where the goods are sold while "afloat," that is a positive declaration that the merchandise has been loaded, but does not necessarily mean that the ship is on the seas bound for its destination.

In sales in which the vendor assumes obligations to ship promptly on demand, but the buyer retains the right to ask for the goods at future periods without being charged with warehousing expenses or demurrage, we have really a modified credit and custody contract. Here we may consider that as soon as the vendor has declared his readiness to ship he has performed his part of the contract from the point of view of delivery and acts henceforth as a custodian, particularly when the merchandise concerned had been provided with the buyer's marks and has been otherwise individually reserved for him. In these cases the risk of loss from fire and other causes is borne by the buyer and he forfeits his right to bring up future claims for defects, still further proving the position of the vendor after his declaration of readiness to ship as that of a custodian of the property of the buyer. Thus importers in Shanghai give their Chinese customers ninety days time to accept goods bought by them. After the lapse of ninety days they charge warehousing charges and demurrage. The customer loses the right to bring claims for defects two weeks after the arrival of the goods. Payment is made by short term sight drafts.

This custodianship on the part of the vendor may have the purpose of giving the buyer time to make preparations to receive the goods or to save the buyer the trouble of warehousing the goods, or in addition, and in fact in most cases, to provide a security to the vendor for already incurred obligations of the buyer. This is particularly true of cases where cash payment on acceptance of the goods is stipulated.

In sales for future delivery the time of the performance may be indicated in the contract *directly* or *indirectly*.

Indicated directly, the time of performance may be set for some definite day, as the first of the month, the last of the month, etc., or a period may be stated within which it must take place, as in several days, weeks or months, or early part, latter part of the month, during a certain season of the year, after the opening of navigation, after the harvest, etc. The stipulation of the performance on a stated day is customary in the banking business. Indefinite stipulations as "after the harvest," etc., may mean through commercial usage a fairly definite period, or may have the intention of leaving the time of performance within indicated limits to the good faith of the contracting party. In German, French and British commercial usages, the courts have ruled that in sales transactions where the performance is stipulated to take place on a certain day, dependent upon the nature of the goods and the intentions of the contracting parties, the buyer cannot demand, but the vendor can accomplish performance before the day stipulated.

Where the performance is stipulated for a certain day, similar regulations as to grace are usually valid as in commercial bills. If the day happens to be a public holiday, then the next business day is regarded as the day of performance, excepting under French usage, where the last preceding business day is the legal time of performance.

Where a stated period is stipulated for the performance of the contract, this may begin on a fixed date or be contingent upon certain eventualities, such as the opening of the navigation. It ends either before a stated date or within indefinite limits, but even in the latter case commercial usage and good faith prescribe an approximate limit.

Within the contractual time limit for performance it is open either to the vendor (vendor's choice or option), or to the buyer (buyer's choice or option) to bring about the performance of the contract by exercising his option. The vendor exercises his option by notifying the buyer, the buyer by sending in a call or demand for goods. Where the merchandise is shipped to the buyer, the vendor's exercise of his option is generally expressed in the fact of sending the invoice to the buyer.

As a rule the vendor, when ready to ship, must give the buyer suitable time to accept the goods; the buyer, when he demands the goods, must give the vendor suitable time to prepare them for shipment. Frequently by contract stipulation, at times by commercial usage, where the buyer has the right to demand shipment, or when upon notice from the vendor he must either get the goods or issue instructions disposing of them, this time is more or less defined. Here we must distinguish whether this time is to be understood in the sense that performance must be effected at its expiration, or the performance may be effected at any time within the period indicated.

In shipments of produce from overseas on the basis of future delivery, the contract generally stipulates the time period within which (or it indicates the name of a vessel due to sail on a certain day, when) the shipment must be finally effected. Is the port of shipment the place of performance, this period marks the time of performance. In this business it is not customary to buy on call exercised by the buyer. The delivery time is expressed by words "to be shipped (or "shipment") during....., etc." It may be intended that by the expiration of the time indicated the merchandise must be turned over to the carrier, or the merchandise must be loaded, or that the ship must start on its journey. Several European associations of importers have established the commercial usage of defining "loading", "clearance" and "sailing" within the specified period. In all business from overseas the vendor must in good time indicate to the buyer in the so-called declaration the name of the steamer and the captain, the markings of the packages, etc.

The performance of a contract split into partial shipments to be effected in a series may be either conditioned upon stated periods or optional. In the first case it is customary to speak of business "on call," (or "on demand"), "on successive call or demand", "or to be shipped August, September, October, November successively buyer's option," or "shipment in uniform quantities every month until..." Partial shipments must be provided for in the contract or based on commercial usage, otherwise the seller has no right to effect them. Sometimes, however, the nature of the merchandise, the volume of the order and the available cargo space make it imperative, for instance,

when a large tonnage of steel materials is sold at a time when shipping space to a certain foreign destination is available only in a limited measure.

Delivery contracts in the strictest sense, called also *time bargains,* refer to transactions (as, for instance, produce exchange contracts for future delivery) where the vendor assumes a strictly binding obligation to deliver, the buyer a strictly binding obligation to accept, at a specified time, against the vendor's notice or the buyer's demand.

An indirect indication of the time of contract performance is given when the contract stipulates delivery at a certain time, but this does not refer to the place of contract performance and is not therefore in itself the time of contract performance. The time of contract performance is then indirectly deduced from the time of stipulated delivery. Indications of time regarding delivery which do not refer to the place of contract performance are characteristic of contracts which indicate the time when the goods must be shipped, and the place of shipment is not the place of contract performance, or indicate the time when the goods must arrive at destination, when the place of shipment is the place of contract performance.

The indirect indication of the time of contract performance is customary in the business transactions on the basis of arrival ("to arrive. . . .," or *"arrival contracts"*). These generally refer to the import of products from overseas, where the performance of the contract is effected after arrival. In such transactions it is customary to stipulate a definite time for the loading of the goods, or to assume that loading has been effected, as in the case of sales of "goods afloat," the time of shipment here being an already determined factor. The vendor here supplies to the buyer first the usual declaration, giving the details of the shipment, such as the name of the steamer, marks of packages, etc., and later submits to him the notice of arrival

The distinction between the direct and the indirect indication of the time of performance is of importance in determining the question of the timely fulfilment of contractual obligations. The fact that the vendor has failed to observe the time stipulation does not necessarily lead to the conclusion that he has failed to perform his contract. It is first necessary to inquire into the

sense and intent of the contractual stipulations with regard to the time of performance. For an example we may take a contract with an oversea vendor specifying "to arrive." The contract stipulates shipment on a certain day with a certain boat. If the vendor fails to ship on the stipulated day and by the stipulated boat, but ships shortly afterwards on a faster vessel, and the performance takes place at the destination not later than if it had been shipped as stipulated, no liability attaches to him; or in the case of the shipment of manufactured goods from Europe and America to oversea countries, where the port of shipment is generally the place of the performance of the contract, if it is agreed that the goods are to reach the buyer within a certain period, it means only that the shipper must use due diligence in shipping his goods in proper time. Has he done so, and later through an unforeseen circumstance the arrival of the shipment is delayed, he is not liable for non-performance or belated performance, unless he has specifically assumed the risk of delay in transportation, which is not usual in international sales contracts.

Default is the culpable failure to perform an obligation when due, and in commerce also the culpable failure to accept the performance of an obligation in due time. If no blame is attached to the obligated party for failure to perform the obligation in due time, no default exists. If a specified date is set for the performance, failure to perform usually denotes default.

Commercial usage in many countries provides certain regulations which the injured party must observe in the face of failure on the part of the other contracting party to perform his obligations in due time. So in some produce exchanges and similar boards he must file a protest, either in the exchange administration, or before a court or a notary, or undertake other steps to determine the existence of a default, but the other contracting party must be in any event notified.

Either of the contracting parties may be found in default in various ways. The most common example of default on the part of the seller is in the failure to turn over the goods to the buyer in due time. Where the merchandise must be turned over to a third party for shipment to the other contracting party, the vendor is obliged merely to turn over the goods to the freight forwarder or the shipping agent in due time. After he has done

so he cannot be in default on account of failure to deliver on time, unless through his power of disposition he hinders the transfer of the merchandise to the buyer.

Failure to effect delivery in good time may be free from default on the part of the vendor: where no definite time of delivery has been specified and the buyer has not made a demand on the vendor; where the goods are sold subject to call or demand, and the buyer has not issued a call or demand in due time; where the co-operation of the buyer is necessary, such as furnishing of specifications, issuance of shipping instructions, providing of a ship in cases where the buyer undertakes to furnish the vessel, the vendor is not in default if the buyer has failed to do his part; where the performance is contingent on a performance by the buyer, such as payment in advance, preliminary payment, provision of a confirmed credit in due time; finally when the vendor is prevented from performance by circumstances beyond his power, as force majeure, including so-called acts of God, strikes, acts of government, state of war, acts of enemies. Many sales conditions and contracts specifically exempt these circumstances, either enumerating them in detail or referring to them as circumstances beyond the vendor's control. Commercial usage demands that the vendor carry out his obligations without loss of time as soon as the unusual circumstances which have prevented him from the performance of contract are removed. And the buyer is obliged to accept this latter performance. However, commercial usage places a reasonable time limit upon such obligations.

The buyer may be in default in failing to accept the goods which the vendor in accordance with the contract has ready for him and offers to him. He may be in default by failure to provide payment, if it is due and he has culpably failed to provide it. This happens in cases where the buyer obligates himself to pay for the goods on or before arrival at destination.

When the vendor is in default, the buyer has the right either to demand subsequent performance with or without a claim for damages, or he may sue for damages because of non-performance, or he may cancel the contract altogether. If the buyer is in default, the seller has the right according to the laws of many countries to warehouse the goods at the expense of the buyer,

to sue for acceptance or to demand damages. When either party become insolvent, the laws of the place of contract conclusion prevail with regard to the completion of the contract.

Differences between vendors and buyers with regard to performance in due time on either part occur often, without either party adopting measures that may be within their legal rights. Commerce generally abhors litigation, particularly in international transactions, and though the injured party is greatly inconvenienced, the common solution of a situation in which one party appears in default is to extend the time limit set in the contract. It may be stated, however, that lack of promptness in meeting obligations, whether to ship or to accept on time, leads to loss of business, for the injured party is likely to suffer considerable loss and great disadvantage through the failure on the part of the other contracting party to perform his obligations in due time.

In international relations it is too difficult to come to an amicable and equitable understanding with regard to losses so suffered, and competition is too keen to permit a defaulting vendor to retain his customer's business or a defaulting buyer to maintain his credit standing.

B. *The Place of Performance.*

The contractual place of performance is that place where parties to a contract assuming obligations must effect those acts which mark the accomplishment of their obligations. Thus the place of performance with regard to the delivery of goods sold is that place where the vendor effects those acts which mark the accomplishment of the transfer of goods from his possession into the possession of the buyer.

This definition explains the importance of the determination of the question which is the place of the contract performance in sales transactions. This point is essential in connection with the question whether the vendor has duly carried out his obligations under the contract. It is also of great importance as regards the obligations of the buyer towards the vendor. The idea of the time of performance is closely connected with the place of performance. It is at the place of performance that the

goods must show those elements of quality and quantity which are stipulated in the contract.

From the place of the performance on the risk falls upon the shoulders of the buyer. In case of doubt, the calculation of the value of the goods is based upon the quantity and dimensions and other measurements the merchandise possessed at the time of the performance in the place of performance. International law in cases of conflict of laws favors the lex loci contractus, the law of the place of contract performance as determining the jurisdiction.

The place of performance may be specifically named in the contract. Or it may be indirectly deduced from the contract on the basis of commercial usage. In many countries the law provides that the place of performance is that place where the party obligated maintains his business domicile, and only when the merchandise at the time of the conclusion of the contract is located at another place, and this fact is known to both contracting parties, is the latter considered the place of performance.

In deducing the place of performance from the contract where it is not directly named, one must consider to what point the vendor bears the risk of transportation, where the authoritative determination of the quantity and the quality of the goods takes place, whence the cost of transportation is charged to the buyer, whether the goods are not only to be delivered by the vendor but also installed and mounted. In all these points, or if the fifth point is not in question, where the first four points coincide we have the place of performance.

The declaration that the vendor will assume the cost of transportation to a certain point does not yet make that point the place of performance, though in certain places and for certain merchandise the quoting of prices "f.o.b." certain points makes the latter the place of performance. It is, however, generally intended to indicate by "f.o.b." that freight charges up to that point are assumed by the vendor.

It is in the interest of the buyer to seek to make the place of performance at the place where his business is domiciled, or in case he has sold to his own customer elsewhere, at the domicile of his customer. But it is in the interest of the vendor to choose as the place of performance the place where the goods

are located at the time of the conclusion of business, or if they are to be manufactured, at his factory.

In view of the importance of determining the place of performance this should be clearly specified in a contract.

C. *Delivery.*

Under *delivery* we understand the sum total of those acts which the vendor must accomplish in order to put the goods at the disposal of the buyer or of a person authorized by the buyer to accept the goods at the place of destination, terminating the vendor's principal obligation.

The place of delivery is generally the contractually stipulated place of the destination of the goods. It is the place where the buyer desires to attain the aim of the contract with regard to the merchandise bought by him, inasfar as he has indicated this aim in the contract and stipulated it in a contract clause. The place of destination is distinct from the place of delivery if the buyer declares his desire to use the goods at a point different from where the delivery takes place, as for instance when a manufacturer located in Pittsburgh declares his willingness to accept in New York a shipment of raw products from South America.

If the merchandise before delivery is not at the place of delivery, the vendor is obliged to transport it to the place of delivery. Where no specific place of delivery is stipulated in the contract, commercial usage provides that the vendor must send the goods to the buyer's business domicile, in order to enable him to accept the goods there.

The buyer has the right to send subsequent instructions to the vendor even such as are not contained in the contract, with regard to the manner of shipment, or provided these instructions are not burdensome. The seller must follow these instructions, whether contained in the contract or not, provided no urgent necessity exists for deviating from them. If the buyer has not chosen to indicate the method of shipment, commercial usage provides that the vendor shall use ordinary commercial diligence and prudence in selecting the method of shipment.

Delivery includes packing the goods, selecting the time of

shipment (with regard to possible local embargoes or traffic difficulties), the preparation of shipping documents, Bills of Lading, certificates, declarations, consular invoices where necessary, choice of freight forwarders (unless indicated by the buyer), issuing instructions to freight forwarders, directions with regard to warehousing, trucking, transportation, etc. Apart from contractual obligations and commercial usage, the vendor's commercial sagacity will lead him to be very thorough and careful in providing for a faultless delivery, as any negligence or mistake leads to claims, dissatisfaction, loss of trade, etc., and even to liability for default in the performance of the contract.

The risk of loss, shortage and deterioration. The risks to which merchandise is subject include in the first instance the danger of deterioration, shortage and total loss. Deterioration may be due to inner causes or also to outer causes, such as fire, water, breakage. The deterioration may lead to partial or to total depreciation. Shortage may mean also a depreciation of the value of the total merchandise. Accidents or violence may lead to total loss. Fire, floods, etc., are instances of the accidents leading to total loss, risks of war, confiscation by enemies or destruction by the enemy are instances of violence leading to total loss.

Other risks include extraordinary expenditures required to preserve the shipment, as partial landing in the case of accidents to a ship, repairs to packing, manipulations necessary to save the goods, such as repainting, etc., running into a port in the case of emergency.

When the goods are turned over to the freight forwarding agency the risk is as a rule borne by the buyer. According to the English law it is not necessary to turn over the goods to the buyer in order to vest the right of property in him. This passes to the buyer in principle on the conclusion of the contract.

Contractual stipulations and commercial usage frequently make special provisions for shifting all or part of the risk to which the merchandise is subject from the shoulders of one party to those of another.

CHAPTER XII.

8. The Price and the Technique of Price Calculation.

A. *The Meaning of Price.*

As a rule the sales contract in international commerce cites a definite price which forms the basis of the performance of the contract.

The price can cover the entire contract, though it stipulate a supply of merchandise of various classes, qualities and dimensions. This is known as a *lump price,* or a *blanket price.* Or the price may refer to individual units of the merchandise referred to in the contract. This is known as a *unit price.* The last-named method predominates in international sales contracts.

Whether the contract specifically names the exact qualities and dimensions of the goods which are to be furnished, or grants to either contracting party the right of later specification and merely indicates the quantity and the general class of the goods, it may either state a fixed and *definite* price for each quality, or an *average* price which is to be applied to all qualities, or a *basic* price. The latter, the basic, or the *base price* is understood for a certain quality or dimension and prices for other qualities and dimensions are figured from it by means of extras added or allowances deducted. Finally in goods which are differentiated by percentage contents a *price per quality unit* may be agreed upon.

The base price is generally the price for the most current quality or dimension of a merchandise, the production of which is effected at a standard cost. This is the custom in the general run of iron and steel products, and the extras for unusual dimensions, special packings, more expensive finishes, etc., are generally so figured that the extra list remains unchanged for prolonged periods, while the base price is permitted to fluctuate in accordance with the market. Moreover it is customary for the list of extras to be practically the same for most producers

in the same line; thus most American steel mills, for instance, maintain the same lists of extras. When, however, increased costs of packing materials, or of auxiliary products, such as tin or zink, or of labor, etc., make it imperative to issue a new list of extras, notice is generally sent to the trade, and a new standard list of extras goes into effect. It is customary to mention in the sales contracts the list of extras which is to apply.

Sometimes it is customary in the case of a series of qualities or of dimensions each a grade higher than the preceding, to state a definite difference to be added for each succeeding grade or dimension.

In the case of unit prices based on quality contents (as in raw sugar, in iron ore based on content, in yarns sold by quality number, etc.), the price of the merchandise is figured by multiplying the quality unit price with the content percentage. If, for instance, the price is $1.00 per ton and 1%, then if the merchandise shows a content of 45%, the price is $45.00 per ton.

Only rarely when the contract is concluded no definite price is named, but it is agreed that a price to be fixed later (at a time generally indicated by a notice given by one or both contracting parties) is to prevail, being, as a rule based upon a price rulling in a given market at that time, or on the average market rate for the preceding month. Thus in Italy silk cocoons are bought on the basis of averaging the prices prevailing at the time of shipment in the principal markets. Metals on the continent of Europe are bought based on the average of London Metal Exchange prices during the month preceding delivery.

Frequently the price indicated in the contract (not referring to quality differences) is conditioned upon fluctuations in the market, or other eventualities such as new customs laws, increased cost of production, etc. The change in the contract price may take place automatically with any change in the market, or a limit may be set beyond which the market price may fluctuate before the change affects the contract price, the market changes may be in one or in both directions, in favor of one or of either contracting party, or the contract may provide that in certain eventualities one of the contracting parties may demand a revision of the contract. This is what is known as the

fluctuation clause of contracts. It is usual in contracts for future delivery spread out over long periods, or in the case of goods which are dominated by market conditions on certain days, so that prices are quoted subject to the alterations of the next market day.

B. The Quotation.

a) *The Meaning of Quotation.*

Pricing the merchandise is that technical commercial process by which its exchange value is expressed. That expression is the *price*. The communication by the vendor to the buyer of the price set by the vendor upon the goods desired by the buyer or offered to the buyer is called a *quotation*. The price is quoted by the vendor to the buyer.

The price itself, or the quotation, is the proportion between quantity units of the merchandise and the quantity units of the exchange medium—money—that is to be given for it. The mode of pricing or of quoting is thus primarily a method expressing the proportion between merchandise and money. But as current in commerce, particularly in international commerce, the quotation, or the price, only rarely, if ever expresses the accurate exchange value of merchandise. On the one hand, the price or the quotation may be subject either to extras or to deductions, on the other hand the price mostly includes that re-imbursement by the buyer in favor of the vendor which is given for such benefits as the postponement of payment (credit) or for the assumption of the costs of transfer. Only when we duly consider such extras and deductions on the one hand, and the elements of re-imbursement of the vendor by the buyer which affect the quotation in addition to the schematic basis of pricing—which is the method for arriving at the correct proportion between merchandise and money—can we correctly estimate the exchange value of merchandise as expressed in the quotation.

In the following we will discuss those conditions which affect the price of merchandise without referring to its actual exchange value, in other words that influence which is based upon the technique of quotations and prices as current in international commerce, taking up for consideration the price basis and allow-

ances other than discounts and rebates, the price denomination, the time basis of price calculation, rebates and discounts, and the costs of transportation, insurance and incidentals as included in the quotation.

b) *The Price Basis and Allowances Relating to the Quantity and the Quality of the Goods.*

The price *basis* is the fixed element in the proportion through which the value of the merchandise exchanged towards the value of the exchange medium is expressed. The price basis is usually formed by a so-called unit of price, being a definite quantity of merchandise, as 1 yard, 1 ton, 1 dozen. This is the direct method of pricing. In certain undeveloped phases of commerce, and in some instances in the retail trade, the money quantity forms the price basis and the merchandise quantity alters in relation to it, as for instance in some markets eggs are sold on the basis of so many eggs to the money unit of the country, and grain is sold in some parts of India by indicating the quantity that goes to a rupee. This is the indirect method of pricing and is rarely used in commerce.

Of some importance to pricing is the stipulation where, when and how the correct measuring of the merchandise must be effected in order to arrive at the value.

As a rule the authoritative measurement is that which is determined at the time of contract performance and at the place of contract performance. But in international sales it is frequently the rule that where the place of shipment is the place of contract performance, occasionally the measurements determined at the place of destination prevail, or else the vendor assumes the guarantee that the quantity of merchandise as delivered at destination shall be in accord with the invoiced quantity, or the quantity determined at the place of contract performance up to a certain point known as *tolerance,* otherwise the vendor binds himself to re-imburse the buyer for the shortage. This is known as the quantity or weight guarantee, and has the same effect as determining the quantity at the place of destination. Through such an agreement the vendor relieves the buyer of the risk as to quantity during transportation.

In the case of some merchandise under such an agreement the vendor runs not only the risk of loss in quantity due to the perils of transportation, but also due to natural loss of quantity during transportation. Thus skins lose weight, woods shrink in dimensions, fluids suffer diminution through evaporation. Weight accretions through climatic conditions, such as dampness, or through accidental causes, as an influx of water, would work to the detriment of the buyer if the quantity is determined at the place of destination. Therefore in hygroscopic merchandise it is customary to agree upon a certain maximum of humidity content on which valuation must be based, or an allowance is stipulated for extraordinary exposure to moisture as the result of transportation perils. Such allowance is as a rule determined by arbitration. The measurements determined at the point of shipment are known as *"shipping weights or measurements,"* those determined at the point of destination as *"arrival* or *unloading* or *delivered weights and measurements."*

The time when the measurements are effected is of importance particularly in the case of goods which suffer loss or shrinkage in the course of time. This may occur during transportation or during warehousing, or during processes of improvement such as finishing, cleaning, assorting, bleaching, etc. Or losses may occur on the spot through damage to packing or through manipulation in the warehouse. Therefore in the case of goods sold on the basis of warrants ex-warehouse it is important to ascertain whether the measurements determined at the time of depositing in the warehouse shall prevail, or the goods must be subjected to an additional *"re-weighing"* process, in order to value them.

With regard to measuring the goods, it is customary to use official scales, standard measuring methods, in many instances round figures, in others to base the measurement of the total merchandise on the basis of averages. These methods of measurement were discussed when we considered the process of determining the quantity of merchandise as an element of the sales contract.

With regard to determining measurement allowances, the following points must be borne in mind:

The weight of merchandise may be the gross or the net

weight. The gross weight includes the weight of the merchandise and the weight of the packing. The net weight is the weight of the merchandise without the packing. This is not always the true weight of the merchandise, for it may include admixtures, or the immediate packaging. In Latin-American usage it is customary to distinguish the "legal" weight as weight of merchandise minus the outer and plus the inner packing. In some markets the actual net weight of the merchandise is referred to as net-net weight.

By deducting the weight of the packing, the tare, from the weight of the shipment, we get the net weight of the merchandise as used commercially for price purposes. But where the usage is to make further deductions besides the tare from the gross weight, then the ultimate remaining weight is considered the net weight. Apart from this, the mere method of figuring the weight shows that the net weight as basis for calculations is not always the actual net weight of the merchandise.

Price calculations in the case of goods sold by weight gennerally are based upon the net weight, or the weight arrived at after all the customary deductions as per invoice. In a few lines of merchandise, however, where the outer packing cannot be conveniently separated from the merchandise, or where the packing and the merchandise are of approximately equal value, merchandise is sold on the basis of "gross for net," which means that the gross weight is taken to be equivalent to the net weight for purposes of calculation.

Where the tare is figured by actual weighing of the packing, it is called the *actual* or the *true* tare. The weighing of the packages may be effected by weighing all of the packages in a shipment, when it is known as the *clear* tare, or *net* tare, or a portion of the packages may be weighed and an average arrived at which is to be multiplied by the number of packages. This *average* tare is determined in accordance with commercial usage, which provides for the proportion of the tare weighed to the tare of the entire shipment. A frequent practice is to weigh 10%.

Furthermore the degree of exactness with which the tare is determined is also of importance. In many instances the practice is to use round figures, rounding up in the upward direction,

which sometimes effects a material price reduction in favor or the buyer. In Amsterdam it is the practice in figuring the average tare to round up by figuring each fraction as ½ kilogram higher.

The clear or net tare can be best determined where the goods are originally packed or where they are re-packed. For this reason the clear tare is generally determined in such places. The tare determined in the place of origin is known as the *original* tare. If at destination it is figured in another measuring system on the basis of converting tables it is known as *converted* tare.

Where it is not customary to unpack goods at once on arrival at destination, it is customary to determine the average tare in order to control the calculation of the tare.

Obviously the tare thus determined seldom fully coincides with the invoiced tare. Such differences are adjusted either by commercial usage or by special agreements, determining to what extent such divergences, if against the interest of the buyer, are to be tolerated. If the difference is considrable and the vendor does not approve the average tare findings of the buyer, it is necessary to arrive at the exact clear, or actual tare. The actual tare arrived at here may be still more divergent from the invoiced tare. The packing may have attracted or absorbed moisture and become heavier. In the case of fatty or pasty goods particles of merchandise may adhere to wrapping, greatly increasing its weight. Such natural causes of tare difference do not entitle the buyer to re-imbursement. If the determined difference apart from such natural causes exceeds the allowance limit established by commercial usage or contract, the vendor bears the costs of the tare verification, otherwise the buyer. The tare determined or corrected at the point of destination is termed the *verified* tare.

Where the tare is not determined for each shipment, but a standard weight is assumed by usage, it is called *usual* tare. If it is based on a certain weight per package it is called *unit* tare, if it is based on a percentage relation to the gross weight it is called *percentage* tare. As a rule the usual tare corresponds to that average weight of a specified mode of packing used for specified merchandise which has been arrived at through ex-

perience. Or it may be intentionally put a little higher, in order to favor the buyer. If the actual tare is considerably higher than the usual tare, the buyer has a right for indemnification.

The *customs* tare is that calculation of the tare which is arbitrarily fixed by customs regulation. This practice is prevalent in many oversea countries.

Next to the tare allowance, the principal weight allowance is the so-called *draft allowance.* Draft, or overweight allowance, is an indemnification received by the buyer for weight losses sustained in re-packing or assorting, or through the deterioration of merchandise or through weight shrinkage of normal character, as through drying. Such draft allowances are regulated by local commercial usage and are generally figured in the invoice. Since this is done, the allowances are made whether losses are actually sustained or not, and the foregoing explanation refers only to the origin of the custom.

These allowances can be made in two forms. Either the buyer receives an overweight in addition to the quantity of merchandise stipulated in the contract, or a deduction is made from the invoiced amount or weight. The first is illustrated by the practice of adding 2% overweight in addition to the invoiced weight in coal and briquette shipments in certain localities. But the second method is the more generally used. As in the case of the usual tare, this allowance may be made on the basis of a certain fixed weight per package or on the percentage basis, and may refer either to the gross or to the net weight.

Other weight allowances are seldom made in the invoice. On the contrary they are generally made from case to case, either on the basis of special agreements or of commercial usage, as re-imbursements granted to the buyer, and may have either the form of a price reduction or a weight deduction, as for leakage, etc.

Less often than in merchandise sold by weight, allowances are made in the case of goods sold by the piece. In some markets the system of such allowances has become such an established usage that it affects the actual standard of measurements. Thus in the lumber trade of London a standard hundred means 120 pieces.

c) *The Price Denomination.*

In international sales contracts a price can be quoted in the currency of the exporting country, in the currency of the importing country, or in the currency of a third country.

Quoting in the currency of his own country the vendor has the advantage of being able to make his calculations without reference to the fluctuations in the exchange market and of being able to collect his bills with less expense than where his prices are expressed in foreign currency.

But quoting in the currency of the exporting country may in some instances be an obstacle to the expansion of the export trade, which is increased in its detrimental effects in proportion as the currency of the exporting country is unknown to the buyers in the importing country; further in proportion to the fluctuations to which that currency is subject. This obstacle is particularly forbidding where there is no direct exchange of commercial bills between the two countries.

The development of export trade (apart from such considerations as the possession by the importer of credits in the exporting country for merchandise shipped there) is best furthered by quoting in the currency of the importing country, because as a rule merchants in the importing countries prefer to buy and figure in their own currency. They can make their calculations with greater ease and accuracy and feel less imperiled by exchange fluctuations. But such a method is a risky one for the vendor. The risk is increased in proportion to the likelihood of fluctuations of exchange in his own or in the importing country. If the importing country uses also gold coins he can eliminate the risk by inserting in his quotation the clause "payable in gold." But here the risk of exchange fluctuations is merely passed on to the buyer, who bears the local exchange fluctuation in his home currency in relation to its gold equivalent.

Prices quoted in the currency of a third country are customary where the currency of the exporting country is little known in the importing country, quotations in the currency of the importing country are considered too risky, and the customers are accustomed to figuring in the currency of a third country. Such a currency is usually the stable currency of a country whose bills

are current both in the exporting and the importing country. This was formerly very largely the case in the use of the British sterling currency. But the use of such a third medium, even in the best of cases, involved an additional risk of exchange loss both for the vendor and for the buyer.

One of the effects of the financial re-adjustments as the result of the world war will be the growing practice of quoting for American goods or even for goods shipped to America in dollars.

The practice for all the three cases mentioned, where the currency indicated in the sales price is not current at the place of payment, is to convert it into money current in the place of payment, unless this is expressly forbidden in the contract.

If the debtor desires to pay the bill on the basis of a conversion into the currency of his own country, the British laws provide that foreign drafts drawn upon the United Kingdom in foreign currency are to be converted into sight drafts at the rate of exchange prevailing on the day of payment in the place of payment. This principle is followed in most oversea countries. Contracts in the export trade largely contain the clause that the conversion is to be effected upon the day's exchange rate for the currency in which the invoice is expressed, and the exchange rate is taken as prevailing in a specified place. In this connection it is not always into sight drafts, but often into time drafts (in Central and South America usually 90 day sight drafts) that the invoice amount must be converted. British usage also differentiates between the rate at which banks buy or sell bills abroad, and it is usual to demand the conversion at the more expensive, the bank's selling rate.

In accordance with this when quotations are made in oversea business in the sterling currency the following payment clause is employed: "payable at the current drawing rate for the.....(here follows the name of the collecting bank) Bank's drafts at.....sight on London." This is the rate at which the importer obtains from the bank drafts for the purpose of remittance.

We may passingly add to these three methods of quoting prices, the practice prevailing in some markets of quoting prices in commodity exchange media. This practice prevails in cer-

tain undeveloped territories where foreign traders deal with the native population largely on the basis of barter transactions.

Where the quoting of prices in a certain currency is connected with a risk of exchange fluctuations then that contracting party which bears the risk can provide ways and means to eliminate or to reduce the element of risk involved. The vendor may sell, the buyer may buy foreign funds available at the time when the vendor must dispose or the buyer must provide these funds.

The simplest method of attaining this result is to make an arrangement with a bank inducing it either to accept or to furnish at some future time suited to the trader's needs an accurately or approximately determined amount of foreign currency at a definite rate of exchange. The vendor may in such cases transfer his claim to the bank when due, or turn over to it remittances or commercial bills received by him, or he can have the amounts due to him collected by a third party in the country where his debtor resides, and when due, place at the disposal of the bank round sums of foreign funds in the country concerned, usually with a bank there located, preferably the correspondent of the first bank.

The buyer who owes an amount in foreign currency obtains in due time from a bank the remittances which he requires or places the amount due with a bank at the disposal of the creditor, perhaps by opening an acceptance credit. If he has been drawn on in foreign currency, he can have the bank guarantee him a certain conversion rate, so that he will have to arrange with the bank for the difference between the rate guaranteed and the rate prevailing when his remittance funds are payable to the creditor.

A more difficult proceeding from the point of view of the technique involved is when the trader covers his exchange requirements in the open exchange market. In this connection the vendor can use his claims against his debtor only in such cases when he has commercial bills to a considerable amount, and they are of such a character that they may be traded in at the exchange. Apart from the size of these bills, however, they are made out in the name of some foreign bank where the buyer has made arrangements to cover the amount due, and they are not

of a character permitting them to be traded in on the exchange. If the buyer seeks to procure remittances on the exchange in order to meet his requirements, he will generally find that only large round sums in such remittances are traded in on the exchange, and bills of specific amount and with a specific due date, such as he requires to settle his obligations, are only rarely obtainable on the exchange.

But the trader may cover himself against the risk of the loss in the exchange rate without trading in his actual bills, but by a concurrent speculation in futures. An exporter who knows that in about six months he will have at his disposal 20,000 pesetas in Madrid, whether as the result of one or of several transactions, can sell 20,000 pesetas deliverable in six months on an exchange where pesetas are traded in for future delivery, and having assured himself by such means of a fixed exchange rate can make his calculations accordingly.

If before the expiration of the six months the exchange rate on the pesetas has fallen, then he can buy back the 20,000 pesetas at a lower rate for the same term, which covers him for the loss he suffers when he collects the money due for his merchandise through the drop in the exchange rate. However such gains are not the aim of the exporter. His aim is to assure himself a fixed exchange rate. In the case of the importer the process is the reverse: he buys foreign funds for future delivery and has when the time comes a remittance for his creditor at a fixed rate of exchange.

The exporter may attempt to cover himself against the risk of the exchange fluctuations by converting the amount of the invoice at an arbitrary rate of exchange, unfavorable to the other party, or by disguising this fluctuation insurance in his quotation, but such a course undermines his ability to compete.

Finally the exporter and the importer may deliberately leave the exchange fluctuation risk open as a gamble or speculation, or the two contracting parties may agree that the exchange rate is guaranteed at a fixed rate, any benefit above that to accrue to the guaranteeing party, as for instance is done in the import business in Shanghai when the Chinese trader buys from American or European importers in taels, and guarantees a certain

minimum exchange rate of taels, but is credited with any gains if the tael in the meanwhile should rise in value.

On the whole the currency in which a merchandise is quoted has this effect upon the price of the merchandise that the invoiced price is always higher the greater the risk of exchange fluctuation is that falls upon the vendor and the greater are the costs of collecting as caused by the expression of price quotation.

d) *The Time Basis of Price Calculation.*

As distinct from contract stipulations regarding the terms of payment, it is of interest to study the time basis on which the prices for merchandise are figured. These may be cash prices, the price being figured as due before delivery, at the time of delivery, or a very short time after delivery. Or they may be figured on the basis of payment in the future.

In the case of cash prices payable at the time of delivery, distinction is made between delivery to the forwarding agent (which is a unilateral transfer), or after shipment (against proof of same), of after delivery has been completed (bi-lateral transfer). In the latter case the period after delivery has been effected and before payment is made may be so brief as to constitute practically immediate payment, but for our distinction it suffices to note that a period of time, no matter how brief, exists between the time of delivery and payment, and that during this period of time the buyer disposes of the goods.

We are not here concerned with the contract stipulations as to the time when payment is to be effected, but with the time when the price is valid exactly as quoted, that is with the basis on which the price is calculated. Payment may be made either by contract or by commercial usage later or earlier than the time basis of price calculation, leading either to a charge of interest or to the deduction of discount.

Thus in the case of payment against the delivery of the Bills of Lading or against the delivery of the goods, or within a very short time thereafter, it does not signify in oversea business that the price had been figured as due at that time. On the contrary, even in such sales conditions, the cash price had been generally figured as due when the goods were shipped, which ter-

minates the vendor's performance, and interest or exchange is collected. As a rule special clauses modify cash prices, as *"net cash,"* expressing both the cash basis of price calculation and the requirement to pay cash.

In the case of cash prices payable after delivery has been effected, a very brief period of grace is generally conceded to the buyer, at the expiration of which the cash price becomes due. Such periods of grace are very rare in the case of cash prices payable at the time of delivery.

The period within which cash prices are valid may be figured as beginning with the date of invoice (which is the regular procedure), or with the date of the documents and of their receipt by the buyer—usual procedure in sales to European exporters—or from the day when the documents are shown to the buyer, as in sales to oversea customers on the basis of *"documents against payment,"* where payment is effected by sight drafts, or from the day of the arrival and of the receipt of the goods by the buyer (in some cases various circumstances may interpose a period of time between arrival at destination and receipt by the buyer), or sometimes this period is dated from the last day of the preceding or the first day of the following month, in connection with monthly statements. Sometimes finally a fiction of future delivery is maintained through the practice of postdating the invoice. In the case of cash prices this extra time allowed for payment runs, according to market, merchandise and commercial usage, from 3 to 30 days.

Prices based on the payment in the future become due after the goods are delivered and always some time later than cash prices figured for the same class of trade. Payment is generally due in these cases on a day determined by the occurrence of some future event, such as arrival of the goods, or it is indicated approximately, as *"before next season."* The period for which credit is granted is indicated in the terms: *"payable 30 or 90 days"* (as the case may be) which are noted on the invoice. The credit period is superimposed upon the grace usually granted for cash prices.

Ordinarily the date of the invoice is the time basis for price calculations. But since it is the aim to grant credit to the buyer and the time of transportation is an uncertain element, it is fre-

quently customary in oversea business to reckon the credit period from the day of arrival of the goods, thus precluding the possibility of the time allowed expiring before the arrival of the goods.

Postdating invoices is an abuse which is met with in lines of trade in which payment conditions are unsatisfactory and the competition keen, leading the suppliers to cater to the delinquency of customers in the matter of prompt settlements.

Instalment payments with varying maturities are not frequent in oversea trade. Occasionally it is agreed that ⅓ of the invoice is paid in advance, ⅓ on delivery and ⅓ on time.

The time of payment in accordance with the contract, as well as the time when the price is effective as quoted may be still further extended through the existence of recognized days of payment. These are in some places established by law and commercial usage. In Trieste, for instance, Friday is the recognized payment day for wholesale accounts. Many concerns arbitrarily fix a certain day of the month, 5th or 10th or 15th, on which they pay their bills. Two firms in constant business connection may agree upon a definite day each month for their settlements.

To sum up, from the point of view of the time basis of price calculation, prices are quoted on *cash* basis and on *time* basis. The amount eventually paid does not always correspond with the price as quoted. If a cash price is quoted, and payment is delayed, interest is charged. In time basis price quotations a certain period in the future is assumed when the price is valid in its quoted form, and payment before or after that period requires adjustments in the shape of discounts or interest charges respectively. This brings us to the consideration of discounts.

e) *Discounts and Rebates.*

Contrary to cash prices, where goods are sold on time the price should contain an indemnification for the loss of interest suffered by the vendor because of the later receipt of the payment. Since, however, it is repugnant to commerce from the point of view of bookkeeping to have two scales of prices, it is customary to employ either cash prices or credit prices. In the latter case the customer has the choice whether to utilize the

time allowed for payment or to pay cash, or cash payment may be insisted upon. The first is indicated by noting on invoice "30 or 90 days,...% discount for cash," "or net 30 days,...% discount for cash." In the second case the invoice "payable within.....days, ...% discount," which would indicate that cash payment is desired.

Where the buyer, whether voluntarily or otherwise, pays on the basis of cash, but the invoice price is figured on time basis, it is customary to grant him an abatement in price equal to the loss in interest which the vendor had in mind in determining the price.

The most customary method of granting such reductions is in the form of *cash discounts.* A cash discount is that reduction in price figured on percentage basis to which a buyer can lay claim, if he pays for goods either before or on delivery, or where a time allowance for cash payments exists, if he pays before the expiration of this time allowance for cash payments. In some places an extra cash discount is granted for payment within 7 days. If the time allowance for cash payments has expired, the buyer has no further claim on cash discounts. In countries and markets where buyers habitually fall back upon the indulgence of their suppliers and exceed time allowances, some, particularly German creditors, have been in the habit of granting cash discounts nevertheless, which is an abuse of the discount privilege.

The amount of discount rates depends upon the average payment conditions in a given country. The poorer these are, the higher are the discount rates granted particularly by foreign creditors. Another factor of importance is the prevailing rate of interest. Occasionally the buyer is allowed a discount on the basis of interest re-imbursement for so and so many days if he pays cash before the expiration of his credit time.

The practice of quoting prices on the basis of time payment is so common that in many lines of business where strictly cash dealings prevail calculations are made on the time basis and a cash discount on these prices is granted. Net cash prices are not subject to discount.

Credit may be granted even on the basis of net cash prices by charging interest until the time of actual payment. This is

done either by charging interest in the account current or by adding interest to the invoice or including it in the draft at the time of settlement. In the export business this is generally done by invoicing on the basis of net cash prices and drawing on the basis of the invoices, but incorporating an interest clause in the draft. The drawee pays interest from the day the draft is drawn until such day as remittance may be estimated to reach Europe or America. Such a clause may read as follows: "with interest at.....per cent. per annum added thereto from date hereof to approximate due date of arrival of the remittance in New York." Usually the "exchange" is also added, being the amount which the English and American banks charge when buying oversea bills in sterling and dollars respectively.

As a rule interest is charged when the buyer fails to pay an invoice promptly at maturity. This is done generally by special agreement, though sometimes commercial usage regulates it. Austrian, German and French laws clearly specify such interest. In English and American usage it is customary to base such interest charges on special agreement. But unless there is such a special agreement or a commercial usage of local character, it is difficult to collect such interest charges without jeopardizing future dealings with the customer. In some markets dilatoriness in such matters is the rule, and this tendency is counteracted by suitable increases of the original price.

The *rebate* is a price allowance on percentage basis with the aim of reducing the price of invoiced goods. While cash discount is an allowance corresponding with the saving of interest to the seller, the rebate is a pure price reduction, and is an allowance not relating to the factor of time. The rebate is customary where prices as marked are accessible to a variety of customers and even to consumers and the vendor may desire to grade individual prices in accordance with the class of customers reached. He likewise may have the desire of effecting price reductions at various times in the future. Again it may be desired to create the impression of a special concession in the mind of individual customers.

Rebates are frequent where the manufacturer offers his goods to the middleman and at the same time to circles which may be partly composed of the middleman's customers.

In Germany rebates have been currently granted to foreign customers, as compared with the rates of domestic customers, but this practice is repugnant to the American legislation.

Rebates are frequently indicated in the form of an addition, as 50, 10 and 5% rebate.

Occasionaly the rebate is combined with the cash discount, and the whole allowance is called discount.

A special rebate is often granted to buyers who in the course of a season purchase goods in excess of a certain specified quantity.

f) *The Costs of Transportation, Insurance and Incidentals as Elements of the Quotation.*

The prevailing commercial usage broadly burdens the vendor with the cost of turning over the goods to the possession of the buyer, and the buyer with the cost of taking possession. The first, under German, French and English laws and under American commercial usage includes all acts which the vendor must undertake at the place of the performance of the contract, up to the point of turning over the goods to the forwarding agent (unilateral transfer of goods). Thus, unless commercial usage in specific lines prescribes differently, or special agreements between contracting parties rule differently, we will in the following consider those expenses which are incurred in turning over the goods at the place of performance to the buyer or to the forwarding agent as chargeable to the vendor, while those expenses as are incurred thereafter and in connection with forwarding from the place of performance as chargeable to the buyer.

The determination of weights and measurements is effected at the cost of the vendor, excepting where an official certificate in the interest of both contracting parties is required, or a special inspection in the interest of the buyer only is necessary. In the former case either by agreement or by usage generally both parties bear the expense share and share alike, in the second case the buyer bears the expense.

Packing is generally at the expense of the buyer to the extent that it is necessary to insure the safety of goods during transportation, and to the expense of the vendor to the extent that

it is needed for the make-up of the goods and pertains to the properties of the goods. Many commercial usages prevail in this connection that seem to contradict this general principle. Thus for instance it is customary among re-sellers of imported products in original packing, even where it is not a component part of the make-up of the goods, to include the packing in their quotation, and in the sale of goods for export where the export packing partakes of the character of the make-up to charge extra for packing.

It is frequently customary in the case of expensive packings to leave the cost of packing to special agreement in contract or to state in price lists "including barrels, sacks, etc.," or "packing extra."

Where the price is quoted including packing, sometimes the buyer has the right to return the packing at his cost and risk and to receive a fixed refund.

Where the price is exclusive of packing, sometimes the buyer is obliged to provide packing within a certain time, otherwise the vendor supplies it at the buyer's costs. In certain packings which are used repeatedly, they are frequently not charged to the buyer but only loaned to him at a certain fixed rate. The return is effected at the buyer's risk and cost. Commercial usage and contractual agreements may govern the return against total or partial refund of packing charged to the buyer.

In the export trade quotations including packing are the rule and are preferred by the buyers, as they offer them a more rational basis for calculations. In many places the customers are apt to make unreasonable deductions where packing costs are added as a separate item.

The cost of transportation arising after the goods have passed from the possession of the vendor at the place of performance of contract are in principle chargeable to the buyer. Since in the shipment of goods from the place of contract performance the act of presenting the goods to the transporting medium is considered as the act of trasferring possession from the vendor to the buyer, the cost of delivering the goods to the transport medium and the cost of loading the goods at the point of original shipment are in principle borne by the vendor.

In reality, however, commercial usage does not always coincide with these principles.

The figuring and the charging of transportation costs is almost always based on special qualifying clauses sanctioned by commercial usage and forming an integral part of the quotation. These clauses have through commercial usage attained in some instances a significance that is not identical with their literal interpretation.

In the following we will consider these qualifying clauses as indicating the extent to which the price quoted includes transportation and similar costs:

1. Price quoted for goods as lying in a warehouse or wherever they may be located, with the task of fetching them and shipping them thence and the cost of these operations chargeable to the buyer. Such clauses are "ex warehouse", ex quay", "ex ship", "at factory", "at plant." The expression "first cost" frequently used in oversea commerce in raw products indicates that the price includes all costs up to the placing or the goods in the warehouse, where they are ready for the buyer.

2. Quotations indicating that the vendor assumes the obligation of loading the goods upon the transport medium immediately adjoining the location of the goods. Such quotations are "f.o.b. cars," or "f.o.b. ship," where the railway siding or the dock adjoin immediately. The expression "f. o. b." (free on board) is frequently loosely used, though commercial usage generally prescribes a specific meaning for various classes of goods and various ports of shipment.

3. If it is necessary to deliver the goods from the place where they are located to the loading point, the vendor assumes the cost and the quotation reads "f.o.b.....railway station," or "f.a.s." — "free alongside," the latter meaning placed free alongside ship.

4. Where the costs of transportation up to a certain point and of possible transshipment or reloading are included, the clause reads "freight free" or "delivered in."

Sometimes a district is assumed as a basis for freight calculation. Thus in the iron and steel trade quotations frequently read: "freight Pittsburgh district," which means that the goods

will be delivered free from the factory to a railway station from which the Pittsburg district freight rates prevail. Or it may mean that the vendor will pay any difference between the actual freight rate and the Pittsburg district freight rate.

In the oversea trade it is customary to include the so-called first cost and the freight in a quotation known as c. & f. or c. f., and when the insurance is included, the clause is expressed as "c.i.f. or CIF," meaning first cost, insurance and freight charges.

When the price is quoted including transportation up to a certain point where the goods must be unloaded from the transport medium, and it is intended that the vendor assume the costs of transportation until the point of unloading is reached, while the buyer is to bear the costs of further operations, it is sometimes customary to use the expression "f.o.b. point of destination."

If the vendor bears the costs of unloading at the point of the arrival of the goods, the clause "f. a. q." (free at quay) is used. "Delivered overside," means that the vendor bears the cost of unloading from the ship into barges or tugs or upon the quay, if alongside ship. The expression "sous palan" used in French commercial usage means that the buyer bears the cost of unloading from the moment the merchandise swings from the ship's derrick.

The vendor may assume the cost of delivering the goods to the warehouse of the buyer, "delivered in store", "free godown."

In certain Far East points it is customary for the buyer to accept the goods at his option within a certain time after their arrival, and c.i.f. prices in such cases include also warehouse expenses and fire insurance at warehouse. Commercial usage does not prescribe any other designation than "c.i.f." for this business. Thus in Shanghai it is regularly understood that "c.i.f." quotations in shillings do not include, but "c.i.f." quotations in taels do include all expenses, including customs charges accruing until the goods are accepted, which is generally sixty to ninety days after arrival.

In some instances the costs of transportation are chargeable to the debit of one party, but are paid by the other and later accounted for. This may be done for the convenience of the

other party, or when one or the other may have better means of controlling the rates or of bringing up claims against the carrier for damages to the shipment or for shortage.

The value of quotations on the basis of delivery at the destination lies in the fact that the buyer can more accurately gauge the cost of the merchandise. It is frequently very difficult for the buyer to make such an estimate in the early stages of the transaction. It is particularly difficult for the foreign buyer to estimate the cost of shipping goods from a factory to the shipping port. The items of ocean transportation and of insurance are also subject to fluctuation. In order to facilitate the calculations of the buyer it is often customary to guarantee to him a maximum sum as freight expenditure, or to indicate to the buyer the freight rate per unit to destination, when quoting with delivery at port of shipment only.

Quoting "loco" or "ex warehouse" or "f.o.b. mill or factory," or any quotation short of delivery at destination, or without indicating the cost to the buyer of shipment to destination, is frequently an obstacle to the free expansion of foreign trade.

In oversea trade, manufacturers generally quote their oversea customers on the basis of delivery at the port of shipment and indicate, where necessary, the cost of ocean shipment to destination. Oversea importers receive their quotations either f.o.b. or c.i.f. F.o.b. or first cost, is a favorite quotation in large purchases where the buyer prefers to charter his own ships or space in ocean vessels, and can secure a lower rate than the vendor.

Customs duties and local tolls and taxes are paid by the vendor as long as they arise through transportation to the point of the contract performance, but after that by the buyer. With regard to local taxes the distinction is made whether these arise during the process of production or after the goods pass into the stage of transportation. In the first case the tax is a portion of the cost of production, and is borne by the producer, in the second case generally by the buyer. Drawbacks of customs duties go to the benefit of the party which had paid the duty in the first instance.

Prices including duty are quoted "duty paid." Goods quoted "in bond" do not include the payment of duties. Duties in the

export trade are as a rule borne by the buyer. In the import trade, when the importer sells to his customers, the importer pays the duty, though he may have received the goods *"in bond."*

Quoting *"duty paid"* is a practice representing a high degree of willingness to accommodate a buyer and is likely to stimulate export trade, but on the other hand it also represents a considerable increase in exporting difficulties from the point of view of the vendor, by augmenting his export risk, necessitating a great increase of capital through advancing the customs duties which in many instances constitute half the value of the merchandise.

The export risk is increased first in the matter of credit, which in addition to the value of the merchandise must include the amount of customs duties, second in the matter of possible unforeseen increases in customs duties, third in the matter of exchange fluctuations.

The practice, though much indulged in by German exporters, is not recommended. It is far better to indicate to the buyer what the customs duties will amount to. Duty-paid quotations are common only in inter-European business.

The practice of quoting in European import "exclusive of duty" is based on the frequency of sales from the place of import to another country, when the goods are re-shipped ex bond without the payment of duties in the original country of entry.

The following list gives the explanation of the most current terms and abbreviations used in quoting and referring to transportation:

Bond—custody of dutiable goods in government warehouse on which it is desired to defer payment.

C. & F.—first cost and freight, not including insurance.

C.I.F.—first cost, insurance, freight.

Cranage—charge for use of wharf crane, when a ship's own appliances are inadequate for unloading.

Ex-ship—sold free of ship, not including lightering.

Ex-warehouse—sold from warehouse door, not including cartage.

F.A.Q.—free at quay.

F.A.S.—free alongside ship.

Free Harbor—a form of c.i.f. contract where the seller is

liable for all risks and charges until the goods reach their port of destination.

Free overboard—same as ex-ship.

Freight—payment for ocean carriage of goods.

Freight forward—freight to be paid by consignee.

g) *Cash Terms.*

The place of payment is the place where payment for goods furnished is to be made. Where the nature of the business or the intent of contracting parties do not expressly or impliedly prescribe another place, the place of payment is generally the place where the debtor carries on his business. Where payment is made at the time of the transfer of goods from the possession of the vendor into that of the buyer, the place of such transfer is the place of payment.

The time of payment differs according to commercial usage and special agreement and may be of the following varieties:

a) *Payment in advance* is payment for goods before the vendor undertakes to carry out his contractual obligations. This payment may be made in full or in the shape of a partial advance payment. This is customary in the case of new or unreliable customers or in cases necessitating a large investment of money on the part of the producer or the preparation of articles to special specifications which cannot be disposed of readily if refused by the buyer.

In such total or partial pre-payment the buyer appears as the vendor's creditor. Frequently the amount is deposited with a third party, usually with a bank, and becomes available after shipment or inspection.

b) *Goods turned over against payment.* This method affords the vendor a certain amount of security against loss, provided that specially manufactured goods are not concerned which are difficult to dispose of. If the place of contract performance is at a distance, the vendor may lose the cost of packing and transportation in the event of the buyer's default. In oversea business this risk is increased, as the costs of transportation both ways may be high, and the vendor in the event of the buyer's default may be forced to dispose of his shipment at a

loss. This risk may be lessened if payment is to be made a very short time after shipment because in that case, in the event of default, the shipment may be stopped in transit and brought back, though even this means a loss. On the whole the risk is increased in proportion to the distance which separates the vendor from the buyer, and particularly in oversea business sometimes it is utterly impracticable to bring back a shipment where the buyer defaults in payment.

c) *Payment after shipment,* or after the turning over of the goods to the forwarding agent or carrier, may be effected before the arrival of the goods or of the documents at destination, either at the place of despatch or elsewhere. If the buyer is not present in person (or through a representative) it is the function of a bank to effect payment. In this connection as a rule certain documentary proofs of shipment effected must be given up, through which act the vendor surrenders the right of disposing of the goods. These documentary proofs include the Bills of Lading, the insurance policy for ocean transportation—unless the buyer effects this himself,—copy of invoice which gives the details of the shipment concerned. The Bills of Lading and the policy (or insurance certificate) must be made out in the name of the buyer or to his order, or to the order of a third party (where payment is made by a third party, the last course is customary, for his security). The documents may also be made out to the order of the vendor and endorsed in blank.

In case payment is effected by a third party (usually a bank) it is customary for the buyer to arrange a credit for the vendor with this third party. This is done by means of a letter of credit which is sent by the buyer to the vendor with the order. In case the party entrusted with the payment expressly obligates himself to effect payment upon the accomplishment of acts on which payment is based, such a letter of credit is called "confirmed letter of credit," and the transaction is called "confirmed credit." The vendor under such circumstances is almost as sure of payment as though payment had been made with order. But unfortunately the description of this credit as "confirmed credit" is inadequate, and for this reason leads in various places to a different interpretation. "Obligatory credit" would be the more satisfactory description. As it is, in some places the description

"confirmed credit" is meant to indicate that the party entrusted with the payment authorizes the vendor to make use of it, but does not obligate itself to make payment.

Another very customary proceeding in payment through third parties after shipment is when the buyer opens a negotiation credit with a bank at the place of shipment for the amount of the draft which the vendor is to draw on him. Here the exporter turns over the documents to the bank and sells his draft to the bank. This gives the vendor the advantage of immediate funds, but it is not strictly cash payment, for as a rule the drawer of the draft is liable to the bank for the amount thus received until the buyer honors the draft. In this method, as in the usual method of drawing drafts against acceptance of documents and selling them to any bank, the banks act "with recourse." In the first instance named, the bank acts because of confidence in the buyer, in the second because of confidence in the seller.

Payment after shipment may be also made at the place of destination, either against the surrender of the merchandise or against the delivery of shipping documents, particularly of the Bills of Lading. In the first case the payment is generally effected after an inspection of the goods. The right of inspection is a prerogative of the buyer, unless either the contract or prevailing commercial usage in the particular line of merchandise and the particular market rule otherwise. In export business to oversea countries such an inspection generally takes place in the custom house of the port of destination, in the presence of a person in the confidence of the vendor,—an employee of his bank or his representative.

The predominant usage in oversea business is payment against documents. This may be effected as described in the foregoing at the place of arrival of the goods. In the latter case payment is made against the presentation of the Bill of Lading, insurance policy, etc. Payment is effected either on arrival of the documents, or some time later, but not later than the time of arrival of the goods. Usually the collection is made by means of a sight draft upon the consignee, payable within a very short period after sight, which the consignee accepts against the presentation of the documents. The period referred to generally represents the difference in time between the arrival of the docu-

ments and the draft by mail and the arrival of the goods by a slower vessel. Should the goods arrive sooner, payment is effected sooner.

Occasionally, in order to assure himself against risks, the buyer stipulates that in payment against documents he will pay only about 90% of the amount due, leaving the balance until he has inspected the goods. This is done frequently by European importers. But in the case of oversea customers the vendor runs the risk of improper claims and is not eager to allow this limitation excepting in the case of customers of irreproachable standing.

Payment after the goods pass into the possession of the customer is customary in the case of European and American firms buying from overseas.

The goods are turned over to the consignee, he examines them and pays cash within a short time, as sanctioned by commercial usage. In the case of buyers who are exporters and who instruct the vendor to ship the goods to their own export field, similarly the documents are turned over to the buyer and payment is made shortly afterwards.

Such a practice is not customary when selling to oversea customers, being limited to customers of exceptionally strong standing and of great reliability. Then the documents are turned over to the buyer, in confidence that he will pay on receipt and examination of goods. In these cases it is customary to have the buyer pay by telegraph remittance to a European or an American bank, or to accept a three days sight draft. In Chapter XVII we review the modern American practice in the matter of terms of payment with the help for the improved facilities provided by American banks in the past five years.

h) *Credit Terms.*

A variety of *credit terms* prevail in international commerce.

1. *Open credit* consists in debiting the buyer on the books of the vendor without any material guarantee or documentary acknowledgment of the indebtedness. The invoice value is entered in the books as due on a certain day. Here we have to distinguish between single invoice items figuring as open ledger

debts or forming a part of an *account current* with a calculation of interest.

In the first case the business connection between the contracting parties is either limited to single transactions, or only one of the contracting parties supplies the other with merchandise. In the case of a permanent business connection each individual invoice amount is considered as due on a certain day when it must be settled, though it is customary to ignore slight time diffrences and to make remittances in round sums, leaving small balances to be included in the next remittance. Sometimes, however, remittances may be made irregularly, either in the shape of occasional payments or in the shape of miscellaneous exchange bills which may accumulate in favor of the debtor through transactions with other parties to whom he may in turn ship goods. The account relationship existing in all of these cases between the vendor and the buyer is called "open account."

In the case of open accounts based on individual items, it is not usual to charge interest, excepting interest on delayed payments. The feature of this class of open accounts is the independence of individual items, each invoice becoming due as it matures.

In the case of an account current relationship each individual item loses its independence and merges in the account. It cannot be sued for separately or form the object of individual litigation. It is lost in the balance struck at certain periods and including interest. The maturity of individual items is merely of importance in the calculation of interest. An account current relationship is generally connected with a contract for the opening of credit, which frequently has the aim of affording financial assistance. The basis of the contract between the two parties is usually formed by granting to the oversea firm a certain stipulated amount as credit which can be utilized in various ways. One of the methods employed is to enable the oversea connection to dispose of funds with banks in his vicinity for the purpose of carrying on his enterprise or of buying products, and the grantor assures himself by demanding mortgages or other security. Or credit may be granted merely through furnishing American or European goods, or through advances on products which the grantee ships from overseas to Europe or America,

or permitting the shipper to draw acceptance drafts on the grantor or his bank in connection with the shipments of his products from overseas, or a negotiation credit may be opened for him with an oversea bank, available for his drafts as attached to documents. Frequently it happens that the oversea trader procures goods from the grantor of credit in Europe or America and utilizes credit in connection with his drafts attached to the documents as he ships to Europe or America, the total of both means of utilizing credit being kept within the sum of credit granted. Where credits are granted to assist the oversea exporter in shipping his goods, these goods are generally hypothecated to the grantor and as a rule are consigned to him. When the entire sum of credit has been used up, further credits can be obtained only if at least a portion of debits is covered by credits, either by remittances or as the result of the sale of consigned goods. Credit is then renewed automatically. Such credit is limited both as to total amount and frequently as to the time within which individual items must be covered by corresponding credits. Of course, in the account current relationship with the charging of interest, the latter limitation can be only approximate. Open credit, either relating to individual items or based on account current relationship (here it is customary with exporters and importers maintaining a buying and selling connection with their oversea business friends, sometimes on the basis of commission and sometimes as partial partners) is not a desirable method of doing business at long range. But commercial usage, or keen competition, or lack of adequate banking connections, or the existence of an alliance amounting almost to a partnership arrangement, still account for the prevalence of such arrangements between exporters and importers in Europe and America on the one hand and importers and exporters in oversea countries on the other. Manufacturers doing a direct business with oversea markets cannot, as a rule, enter into such relations with their customers.

2) Credits granted in international commerce may be *secured* by a documentary acknowledgment of the indebtedness and by the subordination of indebtedness under the strict rules governing commercial bills. It is possible through selling such bills, or borrowing on their security to obtain cash before they

are due. The element of security is heightened when the bill is accepted by a third party, and when this acceptance is done by a first class bank the element of security attains a commercial maximum. This is what is known as *acceptance credit.*

The acceptance may be effected by the buyer or by a third party for the buyer. This is the rule in oversea commerce, and particularly in the importation from overseas to Europe and America. Here the buyer opens an acceptance credit with the drawee for the vendor authorizing the latter to draw. In the British usage a somewhat similar method prevails in the practice of buyers to draw promissory notes to the order of the oversea vendor, which documents play an important role in the re-sale by importers. Banks make loans against them or buy them the same as acceptance drafts.

The vendor hardly ever disposes of the funds covered by the acceptance until some time after the goods are shipped. But if the acceptance credit is *confirmed* by a bank, the vendor is adequately secured.

On the whole the extent of the security afforded by the acceptance credit depends upon the proceedings necessary to obtain the acceptance. Much variation is encountered in this respect between European and American usage on the one hand and the oversea usage on the other.

In sales to Europe (and also to importers in America) it is customary to send the goods direct to the buyer, together with an invoice, with a draft attached to same (the draft being frequently unsigned and unstamped), requesting the buyer to accept and to return it on receipt and on the examination of the goods. Only rarely in this trade the practice is resorted to of having a bank effect in behalf of the buyer the acceptance of the draft against documents. This is a process very similar to the clause *"documents against acceptance,"* yet markedly unlike in nature from the point of view that the transfer of documents is not equivalent here to the transfer of goods, for the goods here would reach the buyer in any event. This turning over of documents in the present instance is merely a proof that the goods had been shipped, and the intention is to prevent the vendor from making a subsequent alteration in his instructions to the carrier.

The drafts in such sales to Europe and America from overseas are either made to mature on a certain day or so and so many months after the nominal date of the draft. The dating here is then of great importance. In drawing on Europe and America the use of the *first* and of *second* of *exchange* (commercial bills executed in duplicate) is not frequent.

In selling to oversea customers, where acceptance is stipulated, the documents are only very rarely—in the case of first class customers—sent to the buyer direct, enabling them to examine and to accept the goods overseas and to effect acceptance by a cable advice to a bank in Europe or America.

The rule is for the vendor to draw the draft and to hand it with documents attached to a bank which buys the draft, or makes a loan on it, or merely undertakes to collect it, and it is then transmitted for acceptance.

The acceptance may be effected under three conditions:

a) *Against the delivery of the goods after the inspection of same in the port on arrival by the buyer or his representative.* b) *Against the surrender of the documents (documents against acceptance, D/A).* c) *Against the presentation of documents which are surrendered on the payment of draft (documents against payment, D/P).*

The last named method is largely employed in the Far East. In its strictest application it stipulates that the goods must be paid for not later than at the time of their arrival. It is really a variety of cash terms, being cash against the Bill of Lading. But commercial usage in the Far East frequently makes a credit transaction of it, with the merchandise itself as a security, the vendor, or his representative, taking the goods from the ship, storing them and turning them over against the payment of the draft a considerable time after maturity, for which interest and other charges are debited to the buyer.

The method of selling on the basis of documents against acceptance is the most frequent and the most desirable. In all of these three methods the common characteristic is that the bank which finances the draft holds the merchandise as a security until the draft is accepted.

The drafts used in oversea trade are either sight drafts or are drawn for certain periods after sight. Their maturity then

depends upon the date of their acceptance. Acceptance is effected either when the documents arrive (being sent by mail they frequently arrive before the goods) or when the goods arrive, or when the goods are accepted. The last is true of drafts described in the foregoing under a); the first is true of drafts described under c). In principle even in the case of documents against acceptance the drafts should be accepted on the arrival of documents; where the acceptance is effected by banks this is in fact the rule; but frequently it is agreed that though the documents arrive before the merchandise, the draft need not be accepted until the merchandise arrives, and then commercial usage may require the use of the clause *"draft to be accepted on arrival of steamer carrying the goods in port."* In selling to oversea countries the security of the acceptance and of payments is attained the more quickly, the sooner the documents and the merchandise reach their destination, for which reason it is to the vendor's advantage to utilize the speediest methods of transmission.

It is customary in sending drafts to oversea countries to make them out in several copies, with copy of the documents attached, and to mail them by various routes, to insure the arrival of at least one copy.

In some territories and lines of business the buyers object to the acceptance of drafts. This is particularly true of South American countries where the exchange rate is subject to violent fluctuations and the customers do not care to oblige themselves to meet a draft on a certain day, lest they may be called upon to effect payments when the exchange rate is unfavorable. In some places the demand of an acceptance is construed as a lack of confidence, which is, of course, an entirely unwarranted view. There are also territories where the commercial community has not been sufficiently educated to appreciate the importance of commercial bills.

As we have seen from the foregoing, where acceptance credit is granted in oversea business, the merchandise itself, until the draft is accepted, forms a security for credit, when either the documents or the goods are turned over against acceptance of the draft. In the case of *"documents against payment"* the merchandise forms a security until complete payment is effected.

There are, however, other ways of using the merchandise as a security, employed in certain import centers,—the letter of lien, or the letter of trust, in which the consignee receives the documents or the merchandise and signs a declaration that he does so *"in trust,"* acting as a custodian, and is holding them at the disposal of the vendor or of his representative (generally a bank), and in the event of a sale obligates himself to turn over the proceeds immediately to the vendor or to his representatives. Apart from the consignment business, such a method is at times employed as a supplementary security of credits against buyer's acceptance to bridge over the gap between the time of the surrender of documents and either payment or other guarantee.

Finally merchandise may be sold with reservation of the property rights, as in the case of machinery sold on time payments. Such business is risky because in many countries articles which become an integral portion of installations cannot form the object of special reservation of rights. Still, where such business is done, it is the intention of the contract to reserve the right of ownership for the vendor until such time as all the payments are effected. Sometimes such contracts are combined with a lease contract, being in the nature of hire purchase contracts. Here again instalment contracts may be subject to the rule of local laws with which the vendor may not be familiar and great care must be exercised in this connection.

3) Goods may be settled for, finally, by *remittances.* These may be *bill remittances,* in which case the settlement is effected by the buyer drawing drafts on third parties, with some future maturity date, and indorsing same to the order of the vendor. After acceptance of same by the drawee, such drafts or bills of exchange offer the vendor a greater security than the acceptance of the buyer, for in addition to the buyer's liability as indorser he has the additional security of the responsibility of the acceptor. Such bills have the advantage of facile negotiability, and the remittance by means of bills drawn on first class firms and accepted by same is considered equivalent to payment. Therefore in the account current connection the remittance by such bills after discounting is credited on the day of receipt. Where an account current relationship does not exist, such remittances

approximately correspond to the amount and to the time when payment for merchandise is due.

Goods may be likewise settled for by *remittances of merchandise.* This is the method employed by many oversea concerns, when they first buy goods on credit from Europe and America, (generally in an account current relationship), and later send produce to their creditors to be sold on commission basis. The European or American creditor (usually an export and import firm) find an important guarantee in such remittances. They sell the goods and use the proceeds to cover the indebtedness of the consignor or to extend the credit granted to him.

4 Credits may be lastly secured by mortgages, by transfer of claims and by guarantees of third parties, but such methods are naturally restricted in use.

In Chapter XVII, while discussing the credit problem confronting the American manufacturer and exporter, we will review the foregoing principles in their application to modern American practice.

9. Special Contract Clauses.

a) *Provisions for the Adjustment of Disputes.*

The points of contracts discussed so far are subject to regulation by special agreement as expressed in contract clauses or by commercial usage, in view of the fact that they are integral parts of the sales contract. In addition to these, there may be special circumstances which it is advisable to incorporate in the contract, or which are subject to commercial usage, though they are not vital parts of the contract. The variety of these precludes a comprehensive analysis of them, but we may single out as the principal among them the stipulation governing the settlement of possible disputes.

International commercial law is a somewhat undeveloped entity. But it is within the province of international law to determine the competence of the laws of individual sovereignties in international commercial transactions, preventing a conflict of laws. This includes not only the statutory and common

law, but also commercial usage inasfar as it acquires legal recognition.

Two principles are authoritative for the decision as to what law must apply in the case of a dispute based on international law: *the law of the place of the contract* (lex loci contractus) *and the law of the place of performance.* The first of these principles is the older of the two and has been sanctioned by usage, while the second begins to prevail largely in these latter days.

Parties to an international commercial contract subject themselves to the observance of commercial usages and to the regulations of certain commercial associations which regulate trading in some lines of merchandise. They are equally bound to subject themselves to the laws of states in which they trade. This acknowledgment of subjection may be either expressly mentioned in a contract or tacitly understood, in accordance with prevailing circumstances and with commercial usage. When an agreement exists between two contracting parties to subject themselves to the jurisdiction of a particular state (to which one or the other owes allegiance, or which has sovereign rights in the territory where the contract object is located), then the conclusion may be drawn that the parties agree to adjust any disputes leading to litigation in accordance with the laws and jurisdiction of that state. Similarly where the two contracting parties agree to submit any arising disputes to the jurisdiction of a court of arbitration, then the regulations and usages of such a court of arbitration must prevail. In view of the indefinite state of international law it is advisable in all cases of important international commercial transactions to specify contractually what law is to prevail in the case of disputes arising.

Within certain limits parties to international sales contracts have the right to agree on the court which is to decide disputes arising from the contract, and even already existing disputes. They have the option of choosing a specified official tribunal or a court of arbitration. The plaintiff may be limited to one particular court or have the choice between several courts. The latter may be either stipulated directly in the contract or indirectly implied by the determination of the place of the contract performance. The plaintiff may choose between a tribunal in the place of the defendant's domicile or he may sue at the place of contract

performance, where again several different courts may be available. It is customary in some countries to stipulate in contracts that they are *"payable and actionable"* at the place of the contract performance. On the whole the aim of each contracting party would be naturally to subject possible disputes to the jurisdiction of his own country, but the consideration must not be overlooked that it is not always possible to execute the judgments of one country in another.

In matters of differences and disputes relating to quality, commercial usage frequently prescribes the submission of same to an expert commission, the aim of which is to preclude the necessity of litigation.

With regard to the procedure, contracting parties are somewhat limited in determining same by contract stipulations, unless it be a choice between several available procedures. States are generally jealous of their prerogative of prescribing the procedure for litigation. On the other hand agreements to submit to arbitration are not as a rule limited by legislation of any country as to form. But courts of arbitration, as instituted by associations and chambers of commerce, generally are subject to their own statutory regulations and by-laws, and at times arbitrators chosen voluntarily reserve the right of determining their own mode of procedure in accordance with prevailing commercial usage.

It is of importance in this connection to determine to what extent the contracting parties may validly determine that in disputes regarding quality the opinion of experts is to be regarded as binding on both parties.

In many states such clauses are not recognized by official tribunals, inasmuch as they undertake to prescribe judicial procedure in the matter of evidence, but the prevailing commercial usage is to regard contract stipulations providing that questions of equality be settled by the opinion of experts, as indicated in the contract, a legitimate agreement, binding on both parties, and a proper provision for the conclusion of the business, for the acceptance of the goods and the calculation of prices, and not as an attempt to dictate judicial procedure.

Where it is agreed that the buyer cannot bring up any

claims if the goods are accompanied by an inspection certificate of the sort agreed upon, and the certificate specifies that the goods are in accord with the contract, then the buyer is contractually obliged to accept the goods and to pay for them. This is particularly true of cases when not only the buyer is obliged to acknowledge the certificate, but the vendor is obliged to present one. Thus goods accompanied by certificates can properly form the basis of contracts.

Likewise in cases where it is agreed that goods not corresponding in quality with the contract must be settled for on the basis of an expert opinion, the vendor re-imbursing the buyer for any inferiority or shortage (in content), and the buyer re-imbursing the vendor in the case of superior quality or excess (of content), we have merely a contractual agreement as to the manner of calculating the final cost of the merchandise. Even where an expert opinion procured in accordance with the contract rules that the goods are not in accord with the contract and need not be accepted, we have in the expert opinion merely the realization of a contract clause which prevents the forming of an obligation on the part of the buyer to accept the goods rather than a juridical evidence of their lack of accord with the contract.

Contractual agreements of this character are very common in international commerce and it is not good policy in any country to withhold judicial recognition from them, because of their great importance in international commerce and their recognition by commercial usage.

b) *The Annulment and Cancellation of Contracts.*

Apart from mutual subsequent agreement, contracts may be annulled or cancelled either automatically (through legal regulations, through contract stipulations, or through commercial usage), or unilaterally through one of the contracting parties exercising his right to withdraw. *Annulment* or *cancellation* may be based on culpable or erroneous actions of one of the two contracting parties, on the occurrence of certain events, on the right of one contracting party to bring about the annulment of his own free will.

The culpable behavior of one of the contracting parties generally creates a unilateral right to withdraw from the contract as far as the other contracting party is concerned. This may include: the vendor's default in delivery; the delivery of defective goods, the buyer's default in payment, provided the goods have not yet passed into the buyer's possession or at least the purchase price has not yet been credited. In the case of goods sold with the rights of property still vesting in the vendor, even these last two provisos do not hold. On the basis of error, a party to a contract who was mistaken about important features of the contract can dispute the validity of the contract.

Events occurring after the conclusion of the contract which may lead to the cancellation of the contract include the deterioration of the buyer's financial standing, occurrences which prevent shipping, provided the vendor is not in default; circumstances which make the attainment of the business aim or of a business profit impossible (export restrictions, force majeure, etc.); finally total loss of the shipment (wreck at sea) or a material deterioration of the shipment.

In the case of circumstances which make the attainment of the business aim or a profit impossible, the contract is regarded as cancelled only if this is expressly provided for in the contract.

Contract clauses frequently state that alterations in certain circumstances, as for instance the increase of shipping expenses to the detriment of the party who is bound to bear them, shall not lead to a cancellation of the contract. Altered circumstances may form the basis of special contract stipulations. Such altered circumstances may relate to a deterioration in the financial standing of the buyer, and then it is sometimes customary, instead of cancelling the contract, first to demand payment from the buyer, and to consider the contract annulled only when payment is denied.

Where one of the contracting parties is given the contractual right to withdraw from the contract of his own volition, he generally has to pay a forfeit or a conventional fine. Finally the buyer or the vendor may become insolvent, which in commercial usage entitles the other contracting party to withdraw from the contract.

The withdrawal from the contract ordinarily necessitates the return of the portions of the contract already performed, where this is possible, and likewise an economic annulment of the effects of the contract as far as both parties are concerned. Or, as indicated by forfeits and conventional fines, other modes may be agreed upon.

c) *Miscellaneous Stipulations Regarding the Performance of Contracts.*

Miscellaneous stipulations regarding the performance of contracts may include the right of transfer of contract to third parties. This must be either stipulated in the contract or permissible by commercial usage. It is generally the right of the buyer, for the vendor's part in the performance is as a rule individual. The transfer is effected either by endorsement or by assignment, on the basis of the original documents. The endorser or assignor may be liable to the endorsees and assignees or to the second party to the original contract or not.

The two contracting parties may agree that in the place of the actual transfer of goods a settlement may be made at the time when the contract performance is due on the basis of the difference between the contract price and the market price then prevailing.

The endorsement or assignment to third parties is not such a substitution, even if the endorser or assignor instead of transferring the goods to the endorsee or assignee effects a settlement on the basis of a price difference, transferring his contract generally against a consideration.

Additional obligations supplementary to the principal obligations may include the obligation on the part of the vendor of machinery to operate the same for demonstration purposes, or on the part of the vendor of various classes of goods to assist the buyer in a publicity campaign. It may be stipulated that the vendor is obligated to reserve the sale of certain articles for a given territory exclusively to the buyer. Or vice versa that the buyer is obligated to buy certain articles exclusively from the vendor.

The vendor may be obligated in the case of marketing certain articles in the future to give the buyer the right of refusal or the first choice at a stipulated price.

Failure to fulfill these miscellaneous supplementary contract obligations has not the same effect as ordinary default, but entitles the injured party merely to damages, unless other consequences are provided for in the contract.

CHAPTER XIII.

Special Types of International Sales Contracts.

A. The indent business with asiatic customers.

a) *General Remarks.*

Indent business in the broad sense of the term is prevalent in the Far East, in India and Australia. It is essentially an import business from the point of view of these territories. It consists in the acceptance by an importer in the Far East, in India or in Australia, or by an exporter in Europe or America, of an order to furnish specified goods. Since the supply of these goods is conditioned, as a rule, on a specified price, and the party who accepts the order is, as a rule, obliged to purchase the goods after receiving the order, he naturally aims to keep himself free from any definite obligations until he has secured the goods at a price leaving him a reasonable profit, though in doing his "shopping" he is sure of his own customer and of his sales price.

Indent business in the strict sense of the term provides the seller with a customer, assures him a certain sales price and certain sales conditions, but leaves him free to enter into a binding contractual relationship with the customer at a later time. This business originated in India and has spread to Zanzibar and East Africa on the one hand and to the Far East on the other. It generally marks business relations between European and American exporters and Asiatic wholesalers. It has assumed certain definite types which are discussed below.

The word "*indent*" means a cut or notch in the margin, and hence it was applied to documents or contracts separated from the original by tearing through along an indented line, in order to identify them. In England the word "indent" has attained in loose usage a meaning almost equivalent to order, and covers practically all orders from overseas which are sent to an exporter, though in its stricter application the term "indent" is even

in England applied specifically to orders from native merchants in the territories mentioned above.

The acceptance of indent orders may be on the basis of dealings for the exporter's own account or as a purchase on commission basis. The former is the more prevalent method, and the tendency is increasingly in that direction. This is only rational, for it is against good usage and commercial common sense in purchasing on commission basis to limit the commissioner to a price determined in advance and fixed in the order. This may be done in cases where the buyer has binding offers on hand, or the price indicated may merely mean a limit beyond which the commissioner is not supposed to go in placing the purchase. Ordinarily, however, the indent names the price which the buyer is agreed to pay, thus leaving it to the exporter accepting the indent to place his purchase on the basis of a price yielding him a certain profit. It may be said, therefore, that as a rule the exporter receiving an indent from an Asiatic merchant buys the goods ordered for his own account, and not on commission basis.

This is particularly indicated in the fact that the Asiatic customer must have quotations on a entirely different basis from those received by the exporter from his source of supply. The buyer must have quotations cif., and in fact "free godown," preferably in English or Indian currency, whereas the exporter buys either at factory or fob. port of shipment. The exporter cannot undertake to combine freight and insurance calculations and exchange fluctuations with purchasing for his Asiatic customer strictly on commission basis, and can cover himself only if between the price basis of the indent purchaser and his own costs there exists a sufficient margin.

In practice, the *indentor* has the advantage of a fixed price as a basis of his calculations, the *indentee* has the choice of accepting the business, if the price permits him to place his own purchase with a sufficient profit margin, or of rejecting it.

It happens relatively seldom that the receipt of the indent coincides with a definite obligation to furnish the goods. This is the case when the indentor has on hand firm quotations from the indentee. But the indentor is immediately bound by his indent.

This represents a certain anomaly in contracts from the point of view of law. Does the receipt of the indent indicate the existence of a contract or merely a proposition from the buyer which is effective only through acceptance? As we will see below in examining the form and the contents of the indent, we may say that in Far Eastern indents the receipt of the indent is an immediate conclusion of a purchase in which the vendor stipulates time for consideration, whereas in Indian indents we have the receipt of a request to buy, which assumes the form of a firm purchase when the indentee signifies his willingness to furnish the goods. But even in the latter case the indentee, through commercial usage, has the benefit of a reasonable time to signify his agreement, while the indentor has no right to withdraw. Indents under seal are considered irrevocable. Only when the indentee expressly declines the indent or fails to indicate his acceptance within a more or less definite space of time, is the indentor released from his obligation to abide by his indent.

The acceptance of the indent is effected without formalities.

An exchange of letters or memoranda is customary in Australia and Hongkong; in the Indian trade, where the indent is given to a European importer (or the resident representative of a European exporter), it is sometimes customary for the indentor to sign an entry in the vendor's indent book. Very largely special indent forms are used. Here we distinguish the Indian indent form from the Far Eastern.

The Indian indent form is the more common, and it is frequently used even in the Far East trade. The indentee fills out an indent form with the details of the order, the indentor signs it and retains a duplicate. It is then a commission signed by the indentor and addressed to the indentee instructing him to buy certain goods. The indentee, who is an independent importer of European or American nationality, issues an order at a price determined by himself and sends it to the manufacturer or the exporter from whom he intends to buy the goods. The representative or the branch of the European or American export firm sends a second indent copy to the home office. Sometimes the indent is telegraphed.

The notice of the acceptance *("accepted"* or *"placed")* or the rejection *("refused"* or *"cancelled)"* of an indent is received

by the indentor in the shape of a so-called report, which as a rule is not signed by the vendor, but appears in the form of a memorandum.

In the Far East trade, however, it is customary to use forms marked "Contract," indicating the existence of a purchase contract, and these forms are made out in duplicate even where the vendor has not yet agreed to supply the goods. The contracts are pasted together and separated along an indented line, each contracting party retaining the copy signed by the other. Cabled indents from the Far East are likewise frequent. No indent copies are exchanged but independent contracts are made with the source of supply in Europe or America. The indentee in the Far East trade can bind himself practically without loss of time after an exchange of cablegrams with the source of supply. Then the contract between the indentee and the indentor assumes a definite form, either by a written declaration which the indentee sends to the indentor or by means of a new contract, this time minus the clause "subject to approval by cable or letter within.....days."

On the basis of the indent price the indentee must calculate the price which he can pay for his source of supply. If the source of supply demands a higher price then the indentee must demand a higher price from the indentor. This is in effect a refusal of the indent which frees the indentor from obligation. A repeated exchange of cables or letters is frequently necessary before through successive raises of the indent prices and reductions of the prices from various sources of supply (by utilizing competition) a definite basis for the conclusion of the indent transaction is reached.

The peculiarity of the indent business is that it assures the vendor of his buyer but does not bind the vendor, and the competition between importers and local representatives of European and American exporters leads many of them to accept indents at unreasonably low prices subject to approval by cable or letter. The aim is to bind the buyer. The economic effect of this is that nowhere are prices so subject to pressure through competition than where the indent business has taken deep root. And while this method was adopted by European merchants for the protection of their own interests, it is in fact the native buyer who now derives most benefit from it.

In accordance with the basic idea of indents in dealing with Asiatic customers the entire text of these forms is intended to bind the buyer as strictly as possible and to cut off any chances of evasion on his part, as well as to provide for a quick settlement of any differences with the fullest protection for the vendor. On the other hand the aim of the various clauses is also to leave as much freedom and scope to the vendor, to release him as far as possible from responsibility and obligations and to limit the annoying consequences of non-performance or faulty performance. The justification of European merchants in adopting such an attitude towards Asiatic customers lies in the traditional unreliability and trickiness of many Asiatic traders and in their tendency to impose demands for subsequent concessions as the result of baseless fault-finding. This last named tendency is particularly prevalent in India where the indent forms are therefore far more lavishly furnished with safeguarding clauses than in the Far East. But even here European merchants are no longer able to impose their will in safeguarding their interests. The tendency towards national emancipation noticeable in India has also led to the attainment of an ever increasing degree of commercial emancipation on the part of the native traders. They have organized powerful associations such as the Bombay Native Piece Goods Merchants Association, and the balance of power is slowly shifting to the native trader. Characteristic in this respect is a list of indent stipulations compiled by this Association and sent to all European and American importers in India (including representatives of European and American exporters) and notifying them that the members of the association would henceforth buy exclusively on the basis of these approved indent terms.

In connection with the tendency of the indentee to free himself from obligations as far as possible lies the danger of losing the character of merchant for own account, in the absence of an obligation to supply goods. Anglo-Indian courts have frequently ruled in specific cases that a commission relationship existed between the indentee and the indentor and forced the indentee to refund to the indentor the difference between their profit and the usual commission, because in the letter-head the indentee used the style of "commission agent" or "commissioner" either in addition to "merchant" or in place of "merchant."

b) *The Indian Indent.*

Besides the date the Indian indent has always an indent number and usually is provided with a codeword for cable reference to the business of each separate indent. The indent is addressed to the vendor, who must buy the goods ordered for the indentor. It is usually kept in the form of a letter. It commences generally after this fashion: "I commission you to purchase for me," or "I commission you to order for me." When the indent is taken by the representative of a European or an American export firm it reads: "I authorize you to instruct your constituents in ..... to purchase." This form of a commission or authorization to purchase does not conflict per se with the idea that the firm commissioned or authorized to purchase acts for its own account. The purchasing, indeed, is done after the buyer has expressed his will. But the principal thing is that the indentee enters into relations with the buyer as an independent contracting party assuming an independent obligation. To emphasize this it is advisable to leave out the formula which is otherwise usual in indents after the words *"to purchase"* or *"to order"*—*"on my account and risk."* This last-named formula leads to the construction of a commission relationship. The formula *"to ship on my account and risk,"* however, has an entirely different significance. A favorite formula which does not emphasize the instructions to order or to purchase is "Please forward this indent to.....with instructions to ship, if practicable, on my account and risk." The character of the indentee as merchant for his own account is expressed clearly in the indent form reading: *"I hereby agree to purchase from you the whole or part of the undermentioned goods."*

Almost any indent contains the clause *"the whole or any part thereof."* This permits the indentee to furnish either the entire quantity of the goods ordered or a reasonable portion thereof. The indentor is bound even in the case of partial execution.

The tendency of inducing the indentee to express acceptance or refusal within reasonable time is indicated in the growing use of such clauses as *"wire acceptance,"* or *"reply within 50 or 60 days"* or *"order valid three weeks after arrival of indent in Europe or America."* Commercial usage, where no stipulation is

made, indicates four weeks after arrival of indent as the time limit for acceptance or refusal.

The time of performance as far as the vendor is concerned is indicated in the time of shipment. In many indents under "shipment" is understood inland shipment from factory or warehouse en route to the port of shipment.

With regard to shipment indents generally specify *"as soon as possible."* Commercial usage limits this to a maximum of six months. It is increasingly customary to specify a more or less definite time of shipment, generally within so and so many months from acceptance of the indent, but it is usual to bind the buyer to accept the goods without fault-finding even if the shipment is effected two weeks sooner or later. It is usual in indents for the vendor to exclude responsibility in the case of force majeure or any delays beyond his control, such as lack of cargo space, etc. The force majeure clause is interpreted most liberally. Strikes in factories where the goods are bought, railway embargoes, default by the manufacturer, etc., excuse the indentee. But the Bombay Piece Goods Merchants' Association has in its model conditions of contract greatly curtailed the scope of the indentee in this regard.

In the case of delays in delivery the indentor must frequently content himself with the right to cancel the contract or to agree to a later delivery, but he cannot insist on later delivery. The right of cancellation on the plea of delayed shipment is frequently limited in time, as for instance three days after receipt of invoice.

The risks of shipment are always to the burden of the buyer. The clauses in this connection are *"to ship on my account and risk"* or *"all risks of the voyage for my account."* After arrival at the port of destination the goods remain at the risk of the buyer. Commercial usage causes the vendor to insure the goods for transportation and in sales ex godown for the warehousing periods for a sum 10% in excess of the invoice value. The vendor also expressly declines all consequences of mutilations of cablegrams.

Even where the invoice does not accurately correspond with the order, the indentor is obliged to accept the goods and to make payment before he can satisfy himself by an inspection of the goods whether shipment was effected correctly. In former years

the indentor was obliged to accept the vendor's draft against documents and to pay even before maturity if the goods arrived in the meanwhile. In recent years a certain mitigation has taken place and frequently the documents are surrendered against acceptance of the draft by the indentor.

The indentor has the right to bring claims on account of defects generally within two weeks after the arrival of goods, and it is frequently stipulated that any claims not regulated within a month after arrival are regarded as outlawed.

In the case of differences a survey by arbitration or sworn experts is customary. English usage prevails in this connection. Each party selects an arbitrator, and if these do not agree, an umpire is chosen. The native indentor is generally obliged to select a European as arbitrator. Or the choice of the arbitrator is subject to the approval by the indentee or his consulate.

The indentee has often the right to avoid arbitration by refunding payments to the buyer and taking possession of the goods. Commercial usage compels the buyer to accept the goods if the shipment is 10% inferior in quality, against the reimbursement of the difference. In piece goods the difference must not exceed 5%. Otherwise he has the right to refuse acceptance. Occasionally the indent stipulates that the indentor is not entitled to bring any claims until he has paid in full. The Bombay Piece Goods Merchants' Association declines this stipulation. In successive shipments it is stipulated that each shipment must form a separate contract.

Indents generally provide stringent regulations in the case the indentor does not fulfill his obligations in due time.

Almost all indents provide that if the buyer is in default, the indentee has the right to auction off the goods without notifying him. The indentor is liable to the indentee for any loss and costs, for interest on delayed payments, and even for commissions.

In view of the stringent provisions of the Indian Merchandise Marks Act the indentor is held responsible for any consequences arising through the use of marks, labels, symbols, etc., prescribed by him. His obligation to pay the import duties is also insisted upon.

Characteristic of the attitude of foreign merchants to the Indian traders is the prevailing clause that anything written in the indent in native characters is to be considered invalid.

Specimen of an Indian Indent.

INDENT.

Indent No. 1236. May 10, 1919.

Codeword *ITINERANT.*

From Messrs. *Rustomjee & Co., Bombay.*

To Messrs. *John Doe & Co.,*

New York, Bombay, London.

1. I/we hereby request you to purchase and ship on my/our account and risk the whole or any portion of the following goods at the prices specified: This Indent to remain in force for 3 weeks after its receipt at NEW YORK. Your telegram accepting this order shall be subject to confirmation by letter as regards correctness of details. Any refusal by wire to place the order at limits fixed may be set aside within 3 days should you be able to place the order meanwhile. If the limits given are subsequently increased or the Indent is referred back for confirmation, the time for shipment shall be deemed to be increased by the number of days in which the delay is caused, unless otherwise stipulated. For any bonus or allowance made by Manufacturers I/we shall have no claim. Remarks made on samples on which the Indents are based shall be taken as a part of this Indent. All risk of voyage, sea-damage, breakage and leakage will be on my/our head. 2. I/we agree to accept your Invoice of the purchase made as correct without further proof, and to accept on presentation and pay at maturity the draft drawn for the Invoice value with all charges and interest. No objection or dispute shall be raised by me/us, as to quality or damage or otherwise unless the draft is first accepted and paid by me/us. 3. In default of my accepting or paying the draft at maturity I/we agree to pay you the value of the said goods at their Invoice value together with interest and all charges as for goods bargained and sold to me/us. I/we also authorize you to resell the said goods at your option by public or private sale on my/our account and risk, and agree to pay to you any loss or deficit together with all interest and charges, and your commission at 5% per cent, on such resale, waiving all claims to profit or surplus. Your account-sale for such resale will be accepted as correct. 4. When goods under any indent are to be sent in several shipments, each shipment shall be treated as a separate contract. Any default in sending any installments at the stipulated time shall not entitle me/us to reject all the shipments, but you are at liberty to tender any shipment that has arrived at the proper time under any of the stipulated installments. "Shipment" of goods shall include Railway Receipt or Carrier's Receipt. Time allowed for shipment shall run from the date of acceptance of Indent. Any shipment containing a smaller or larger quantity than that ordered will be accepted, provided in the case of larger quantity: the Indentor will be given the stipulated

quantity only, or payment for the same. Shipment made within 14 days of the time stipulated shall be accepted. If there is no steamer available within the stipulated time so extended by 14 days, at the port of shipment the goods may be shipped by the next available steamer. Shipments made before the stipulated time will be accepted provided interest be only charged as if the goods had been shipped in proper time. No objection to be made for delays, caused by strikes, riots or accidents, and for late delivery & non delivery of goods owing to Manufacturer's default, or of Force Major. 5. No dispute shall be raised or claims made unless notice of difference of quality, or quantity or colour or any damage to goods shall be given within 8 days of their arrival by steamer. All such disputes, if made within the said 8 days; shall be referred to one or two European Merchants (one to be selected by each side) approved of by you or by the Committee of the Bombay Chamber of Commerce, and the decision of the Arbitrators, or their Umpire, if any, shall be final and binding. The losing party to pay the survey fee. You are at liberty, before or after calling a survey to refer the dispute to your Head firm in New York for settlement; or to take up the goods and cancel the Indent on refunding to me/us the amount of the draft if paid by me. 6. INSURANCE: The goods are to be insured as usual for the voyage and also while they are at the Docks if so asked, and I/we agree to pay for the Insurance charges. In any event the goods will be at my/our risk from the date of shipment till delivery. In the case of Glassware you are not responsible for breakage. In the case of Insurance against War Risk additional premium to be borne by me/us. 7. For all orders for Japan goods I/we do not hold you responsible for difference in quality shape size packing & shipment time whatsoever. 8. Any writing in vernacular in addition to my own signature shall have no effect. The above conditions are explained to me.

Repeat Double Indent 725.
India Rubber Canvas Shoes. Price List 472. Maker 511.

200 cases each containing 51 pairs as under:—

Girls' Size	*3*	*4*	*5*	*6*	*7*	*8*	*9*	*10*	*11*	*12*	*13*	*1*	*2*
Pairs	*1*	*2*	*3*	*4*	*5*	*5*	*5*	*5*	*4*	*4*	*4*	*4*	*5*

at 20d. per pair average.

Free Bombay Harbor.

Quality: *3606.*
Color: *Grey mottled as usual.*
Packing: *Each pair in a carton box with 2 pairs of laces as usual.*
Stamping: *"Made in U.S.A." to be stamped.*
Shipment: *In 4 lots, 1st Aug. 1919, and the rest at an interval of 4/6 weeks from one another.*
Terms: *D/A, 60 d/s. No interest and no Bank Postage.*

RUSTOMJEE & CO.
(Signature of Indentor.)

c) *Far Eastern Indents.*

We have already mentioned that the form of Indian indents is customary also in the Far East. But in addition to this, a specific form has been worked out for the Far Eastern trade.

Here the indent form bears the heading "Contract." It is provided with the contract number. The style of the indent is that of a contract rather than that of a letter. The two contracting parties are referred to as *"buyer"* or *"purchaser"* and as *"seller,"* although the commission relationship here is far more frequent than in India. The nature of the business is either indicated as a purchase contract *("Contract between..... byer, and.....seller,"* or *"I herewith confirm having bought from you,"* or *"I herewith confirm having sold to you"),* or as an order to purchase *("I have this day ordered through you").*

The right of the seller to bind himself definitely only after accomplished purchase in Europe or America is indicated by the formula *"contract subject to approval."* The approval is stipulated generally *"within soonest,"* and six to seven weeks is regarded as the usual time.

The seller is obliged to deliver within a specified time or *"as soon as possible."* Force majeure is stipulated as an excuse for delays of for the cancellation of the contract by the vendor. Delays in delivery make the contract null and void or cancelled. It is often specifically mentioned that partial deliveries must be accepted and in that case the balance of the contract may be cancelled.

The contracts generally stipulate that the goods must be accepted within a certain time (2 months in China, 1 month in Japan), within which period they are warehoused at the cost of the buyer.

In the case of default by the buyer the vendor has the right to demand damages and interest, but this right is seldom exercised.

Defects must be complained of within a specified time. Arbitration clauses for the settlement of difficulties are frequent in Japanese indents, but generally absent from Chinese indents.

JOHN SMITH & CO., SHANGHAI

Specimen of a Far East Indent.

No. Shanghai, 9th May, 1919

CONTRACT between Mr. *LO HING KEE* (buyer).
and Messrs. *JOHN SMITH & CO.* (sellers).

Subject to approval by *cable or letter* within *soonest.*

5 (five) cases at 30 pieces at 30 yards.
Crêpe as per sample 1016, 30".
Design as per sample.

Colour assortment p. case:

l'brown	*3 pieces*	*as per samples.*
black	*15* „	
ash	*6* „	
d'green	*2* „	
gentian	*2* „	
red-brown	*2* „	
	30 pieces	

Price: Tls. 0.25.—1% per yard.

To arrive *as soon as possible.*

To be cleared and paid for within *two* months after arrival.

Fire Insurance covered by sellers only until Due-Date of contract. Interest, Storage and Fire Insurance Premium to be paid by purchaser if the goods have not been completely taken delivery of within the time stipulated above. Any claim of whatever nature to be made within two weeks after arrival of cargo. Claims made after that period will not be recognized nor can any claims be recognized after the goods have left the wharf or our private godowns.

In the case of purchaser failing to pay for the above goods at the end of the time stipulated above, sellers are at liberty, to dispose of the goods either privately or at auction on purchaser's account, who agrees, to pay the deficiency if any.

Force majeure to free seller from all responsibilities entered into under this contract.

B. *Contracts in the Import of Oversea Produce.*

Oversea produce of various kinds may be sold in Europe and America while still in transit upon the sea or while being loaded in the port of shipment. Two classes of business are based on such sales. The first is the ordinary delivery contract, for future delivery, including operations in futures on exchanges dealing with particular commodities. The intention is to utilize the time between the date of future delivery and the conclusion of the contract for the transportation of the goods. Actual importation in such contracts is not always the foremost consideration on the part of the seller, particularly in the case of exchange operations.

The other class of business is concerned with the actual importation. It bases its peculiarities on the circumstance that the goods at the time of the conclusion of the contract are still at sea and not yet in the sales territory. This is dealing with produce on the basis of *"floating conditions."* Contracts on floating conditions depend upon the place of performance,—where it is the oversea port of shipment, we have cif contracts, where it is the European or American port of destination we speak of *"arrival contracts."* The trade rules of the New York Coffee Exchange formulate arrival and transit contracts. The distinction between cif and arrival contracts is not everywhere nor in connection with all produce maintained with equal clearness.

As vendors in these transactions we find either an oversea firm, which may have its head or branch office in Europe or America, or an importer acting for his own account and less frequently as a sales agent on commission. In some instances import business in produce is passed from house to house with the result that a chain of buyers for the same import contract is formed. Oversea firms having no branches in Europe and America utilize the services of agents, but these generally act also for other vendors. Thus business is done through personal contact with buyers. But as these transactions are likely to be very important in volume the necessity arises for a written form of contract, and in dealings in oversea produce on the British markets certain contract forms have been evolved which in principle are used throughout the world where oversea produce is imported.

Contracts are made out in duplicate or triplicate (a copy

for the vendor, one for the buyer, one for the agent), or as in England in one copy only. In the latter case the buyer receives the sole copy and he confirms it by means of a slip detached from the contract—known as confirmation note or slip, or else he writes a letter of confirmation. The vendor, or the broker (agent) makes out the contract. It is signed by the broker, or by one contracting party, or by the vendor, the buyer and the broker.

The practice is to use printed blanks containing the clauses under which such business is usually concluded. Associations and exchanges specializing in the particular kind of produce are generally responsible for the wording of these blanks. Sometimes vendors or brokers prepare their own blanks. Occasionally a variety of contract forms deal with the same merchandise in accordance with its origin, or in accordance with the volume—entire shiploads or part shiploads, or where either the vendor or the buyer assumes the risk of transportation. Sometimes the same blank covers several variations, with the undesired clauses crossed out.

Generally the contract forms include all of the clauses valid for the contract, but sometimes reference is made to standard conditions or terms worked out by an association or exchange. The contract text is usually printed on the two sides of the blank, those on the reverse being as a rule clauses of general character, and in that case the front of the blank expressly stipulates the validity of conditions found on the reverse. Where the conditions have been worked out by an association or exchange this body may print the blanks and either sell them or give them free to members. Such official contract blanks have a heading such as *"Cif contract"*, *"Arrival contract,"* the year of the compilation, or a symbol and a number, such as E-2, which is a contract form current in the international rice trade.

The tendency of these official terms as compiled by associations and exchanges is to protect the interests of their members, and occasionally special compromise contracts are made between the two contracting parties, deviating in details from those current in the trade.

The dominating position of England at the time of the development of organized trading in oversea produce has led to the general adoption of English standards, with a few deviations, throughout the world. Oversea shippers are accustomed to sell-

ing in accordance with English conditions. In England these prevail exclusively. On the continent of Europe they prevail largely. In America the deviations are not particularly important. For our theoretical consideration we will therefore take the English contract as a pattern.

Cif contracts and arrival contracts have certain features in common. We will discuss these first. The element of *"floating conditions"* is shared by both. The goods must make an ocean journey before they are available at destination. Only rarely these contracts refer to goods already arrived in the port of destination and either ready to be discharged or in the course of being discharged. The oversea vendor sells either goods that are to be loaded upon a vessel or are afloat. The time of delivery is determined by indicating when the goods will be loaded or when the ship is to sail, or when the loading and the sailing had taken place, rarely (exclusively in the case of arrival contracts) a definite time of arrival or the fact of the goods being in course of discharging is mentioned. The date of the Bill of Lading is considered proof.

Where the name of the vessel is not given, the buyer being interested in the safety of the journey, it is customary to specify the transport medium, *"a steamship"*, *"a steel steamship"*, *"a first class steamship."* Or a charter party of a special class may be insisted on, or certain clauses particularly mentioned, such as relating to lighterage or strikes. Transshipment may be expressly permitted. The buyer may be given the option of certain ports of entry.

In the case of contracts covering large quantities it may be specified that portions of the contract may be executed by shipment on several vessels, with a minimum for each vessel, each shipment being regarded as a separate contract.

The goods may be shipped as a shipload or a parcel. The latter form of shipment may be either expressly forbidden, or limited to shipment with other goods that are not likely to injure the shipment. Is merchandise shipped in bulk to several recipients, without being separated, or in packages without marking, then any defective portions, shortage or surplusage must be apportioned pro rata among the buyers. The same principle holds good for sweepings, where such accumulate, even where goods

are packed in properly marked packages consigned to several buyers.

Special rules prevail for the declaration of the date of shipment or loading. These rules cover the contents, the time limit and the transport medium. The object of this declaration is to prevent the vendor of piling up unduly on one buyer the consequences of a mishap at sea, if he has several shipments addressed to more than one buyer underway. Delay in declaration is considered equivalent to delay in delivery.

After the goods have been loaded, shipping samples may be sent to the buyers which they may pass on as resellers. The quantity as fixed in the contract is generally approximate. The limit of tolerance is usually 5% or 10%. The tolerance is generally interpreted in favor of the vendor, who may ship more or less in accordance with it. When the quantity deviation exceeds a particular percentage specified in the contract, the buyer frequently is granted the right of demanding an accounting for the total deviation or a re-imbursement. Sometimes a conventional fine in favor of the buyer is stipulated if the total deviation exceeds the tolerance limits. A surplus above the tolerance may be declined.

In all such contracts the vendor overseas assumes the obligation to ship the quantity specified in the contract. The proof of it is in the Bill of Lading. But where payment is to be made on the basis of delivered quantity, only that is authoritative.

A considerable latitude is left in the contract with regard to the quality. The quality is determined in accordance with either permanent standards—either general trade standards or special standards of the shipper—or with standard samples. In many lines of produce the quality is determined by such clauses as "fair average quality of the season's shipments at time and place of shipment." The samples and standards are only approximately authoritative, the contracts reading "about as per standard" or "about as per sample." The buyer has seldom the right to refuse the shipment, unless the percentage of inferiority exceeds 10% or the shipper has been guilty of culpable negligence. In many English contracts the clause is included reading *"buyers on no account to reject the goods,"* even where the quality is guaranteed. The guarantee means that the vendor will re-imburse for inferiority in quality. The right to re-imbursement in many con-

tracts begins where the inferiority exceeds 10%. Generally the re-imbursement is left to arbitration ("if inferior a fair allowance to be made, the same to be settled by arbitration"). The allowance may correspond in proportion to the inferiority or exceed it, as stipulated in the contract. Special allowance rates may be stipulated in the contract for various grades. Rarely any superiority in quality entitles the vendor to re-imbursement on the part of the buyer.

As with regard to quantity, the vendor is obligated to ship a certain quality. Quality deterioration during the transport is treated differently in cif and in arrival contracts, but it must be in both instances determined what quality had been shipped. Since the arbitration is effected in accordance with arbitration samples which are drawn in the port of entry, the arbitrators must consider the quality changes to which the goods are subject during transportation and even the quality changes in the samples themselves. In many contracts it is stipulated that the season of the year when the shipment takes place must be taken into consideration.

Sometimes the vendor declines to guarantee goods as free from defects which make it unmerchantable, if such defects were unobservable by reasonable inspection. Such a clause stamps him to some extent as a purchasing agent for the buyer. In fact such a view is supported in all floating condition contracts, since the buyer is generally compelled to accept more or less what arrives at the port of entry. It is here that the arrangement exists that the certificate of quality presented by the vendor is considered final.

The acceptance of the goods must as a rule take place in the port of arrival. Claims and demands for arbitration must be made within a certain time limit. This time limit commences in cif contracts from the completion of discharging operations, in the case of arrival contracts from the time the goods are ready to be received, and varies from 7 to 30 days. Where goods are intended for re-sale, these limits sometimes apply to the ultimate buyer and the first buyer must pass the claims on immediately.

The examination as to quality (natural weight in the case of grain) or to weight must be effected in a strictly prescribed manner through prescribed organs. The vendor or his representative have the right to be present. This is particularly true

where samples are drawn for arbitration purposes. Where the contract obliges both parties to be present at the determination of quality or weight, and either delays to put in an appearance, the other party may demand the appointment of a sworn expert.

Where the vendor is in default, the English contracts permit the buyer to re-purchase the goods, charging the vendor with his damages. Or else he can *"close the contract"* and demand the re-imbursement between the price charged and an amount determined by arbitration, sometimes at a rate exceeding the market rate prevailing at time of the closing of the contract. Finally he can claim damages. The difference between the price charged and that fixed by the arbitration is billed to the vendor on the basis of *"invoicing back."* The buyer has the same rights in the case of quality difference, though not in the case of quality deterioration. In order to find the vendor in default, the buyer must within a very brief period of the contract performance time demand the performance of the contract. The buyer is not obliged to grant any additional time, although in jute contracts commercial usage permits a delay of one month, against a price reduction from week to week, with a maximum of 5%. In the cif contracts dealing with American cotton in Liverpool the arbitrators rule whether the buyer shall make use of his rights because of delayed shipments or accept the delayed goods with a re-imbursement.

In case the buyer delays to accept the goods, the vendor has the right of re-sale and a claim for damages.

Most contracts exclude responsibility for delay if due to force majeure, such as export restrictions, blockades, warlike events, strikes, rebellions, etc. The usual effect of such events is the cancellation of the contract. Sometimes however the vendor receives a time extension for delivery. Thus in the case of navigation troubles due to ice, he may ship three weeks after the resumption of the navigation. Likewise in the case of strikes, etc., a time extension may be granted first, and the contract cancelled if the shipment is not effected then. In some cases, as in the jute contracts in London, the buyer has the option in the case of force majeure either to insist on fulfilment when the cause of delay is removed or to withdraw from the contract. Sometimes the buyer is prevented through strikes or similar

causes from taking over the goods. In such cases the contract is as a rule extended.

Where the goods are lost either totally or in part through an accident during the ocean journey, the vendor is neither obliged to supply another shipment nor to pay damages. This is true both of cif and of arrival contracts, though the reason for this differs in the two classes of contracts. In the cif contracts the performance is accomplished when the goods are loaded, in the arrival contracts the vendor is bound only in the case of safe arrival. Thus the effects of the loss differ in both cases. In the arrival contract the regular effect of the loss of shipment is the cancellation of the contract. In the cif contract the cancellation is effected only when payment has not been made. Where the contract is not cancelled, the buyer is covered by the insurance.

For the cancellation of the contract the vendor must be able to prove that the goods lost were intended by him for the performance of the contract which is to be cancelled. It is easy to do so, when he had notified the buyer of the shipment effected and given him the name of the ship. Many contracts stipulate the cancellation of the contract to be depended upon such a declaration. In case the goods are either totally or partially salvage and transshipped, the contract is maintained.

In the case either party becomes insolvent contracts provide for the immediate closing of the contract against an accounting or a transaction to cover elsewhere.

Disputes are to be settled by arbitrators who choose an umpire. Appeals from the decision of the arbitrators are possible to the committee of the association under whose rules the arbitrators are chosen. The award of arbitrators or of the committee of appeal is stipulated in contracts as binding. English contracts stipulate arbitration in England and the jurisdiction of English courts.

So far for similarities between the two forms of contracts. Their differences arise from the difference in the place of performance. The arrival contract refers to goods from overseas that are to be turned over by the vendor after arrival in Europe or America. The contract takes into consideration that the vendor must first procure his goods overseas and does not demand from him absolute conformance in quality and quantity with the

contract in delivering his goods. It suffices if the vendor, in accordance with the contract, is ready to turn over to the buyer in Europe and America goods shipped from overseas. For the counter-obligations of the buyer it is the transfer at place of arrival and not the proceedings at place of shipment that is authoritative. The fact that delivery takes place at point of arrival indicates that this class of business is in the hands of firms located in European and American ports, that is in the hands of importers. The buyers have also their place of business here and must take over the goods at the port of arrival, so that arrival contracts are local transactions with goods coming from overseas.

The cif business, however, is a long range business, even when both contracting parties happen to have business establishments in the port of arrival. But the authoritative act in the contract performance, which also defines the buyer's obligations, is effected overseas, whence the goods the shipped for delivery to the buyer.

Thus the risk of transportation, in accordance with the nature of both contracts, is in the case of the arrival contract on the shoulders of the vendor, in the case of the cif contracts on the shoulders of the buyer.

With regard to quality, in the case of arrival contracts, the vendor has merely the obligation to supply to the buyer the goods —loaded in accordance with the contract—as they arrive, but he must re-imburse, not referring to any original quality differences, for any damage they suffer in transit, though there are exceptions to this rule. Thus in connection with the gambier arrival contracts of the London Produce Brokers' Association the buyer must accept, without re-imbursement, the damaged and broken parcel assigned to him.

Still on the whole the buyer has the right to reject damaged goods. Sometimes a difference is made between "sea damage" and such damages as overheating of the grain which are summarized in English contracts as "out of condition," and the buyer has the right to reject only sea-damaged goods. The vendor does not always find himself released of all risks with the arrival of the goods. Sometimes he agrees to deliver ex quay or ex warehouse, and he bears the risk until then. Sometimes, in ac-

cordance with the clause of "landed terms" he must bear the risk of loss by fire.

In the cif business the risk of deterioration of quality during the sea journey is on the shoulders of the buyer. But the vendor may undertake a guarantee for certain properties of the goods after arrival. This is particularly true of oil seeds and grain, which are sold "sound delivery," or he may guarantee a certain natural weight of the grain, or a certain freedom from admixtures in oil-seeds.

In accordance with the nature of the contracts, it is the weight determined at the place of arrival that must be paid for in arrival contracts, and the shipped weight in cif contracts. But there are certain goods such as shellack where even in arrival contracts ex-ship terms prevail, providing for payment on the basis of shipped weight. The vendor may sometimes guarantee in cif contracts that the delivered weight will not be more than a certain percentage below the shipped and invoiced weight, as a basis for payment.

Where the arrival weight is guaranteed, and the penetration of water increases the weight of the goods, it may be stipulated that only the weight corresponding to the normal sound condition of the goods be taken as the basis for payment. This is the case also (in grain and oilseeds) when the price is quoted per... lbs. sound delivered. Commercial usage in the ports of shipment and of arrival dictates the manner of ascertaining the weight. The costs of weighing are born by the vendor in arrival contracts, by the buyer in cif contracts. Even when in the case of cif contracts the final settlement is effected after the quantity and the quality are determined at the port of arrival, a provisional invoice is made up on the basis of the shipped weight and forms the basis for drawing and for payment against the shipping documents and for final settlement. In the case of arrival contracts settlement is effected only once, although even here arbitrations and quality differences may make a final settlement in supplement necessary.

In cif contracts the buyer seeks to cover himself for the risk of transportation through marine insurance, but this is generally effected by the vendor; contracts of this kind prescribe conditions for this safeguard. The amount of the insurance must exceed the value of the invoice 2, 5 or 10%. Sometimes special

forms of insurance policies are prescribed, or approved underwriters are insisted upon. In the case of damage that party must seek settlement with the insurer which is affected by the damage. So when the seller must re-imburse the buyer for damage, it is the seller who seeks re-imbursement from the insurer. But since in cif contracts the insurance policy forms an important protection for the buyer, it is often stipulated that he need not turn it over to the vendor until the latter has re-imbursed him for damage.

Sometimes the insurance is effected by the buyer, when the cif contract is transformed into a cf contract, or the cost of the insurance is deducted from the cif price. But as a rule the vendor prefers to arrange for the insurance because until he has received the acceptance of the draft or payment he is vitally interested in protecting the goods. It is sometimes stipulated that until the buyer has accepted the vendor's draft or paid him the cost of the goods he holds the insurance policy in trust for the vendor.

In arrival contracts marine insurance is not mentioned.

In cif contracts the authoritative act in the transfer of the goods is the shipment of the goods from overseas. The later transfer of shipping documents is only an obligatory supplementary act. The goods are considered delivered and the buyer must take them over from the carrier as promptly as possible to avoid unnecessary charges. In arrival contracts the shipment from overseas is a preliminary condition for the contractual performance which consists in the delivery of the goods after arrival. The arrival of the goods and their readiness for the buyer are indicated in a notice by the vendor to the buyer. The authoritative act of transfer consists in the actual surrender of the goods (a supplementary act in the shape of surrender of documents, warrants, delivery orders may precede this). The goods may be given up ex-ship, ex-quay, ex-warehouse—landed terms, or by being reloaded on another vessel—"taken overside for transshipment" or loaded in cars.

Quotations in cif contracts are naturally mostly on cif basis, sometimes on cf basis, where the buyer effects his own insurance, very seldom fob port of shipment. In arrival contracts prices are ex-ship, ex-quay, ex-warehouse, sous palan, generally in accordance with the commercial usage in the port of arrival.

The usual terms of payment in cif contracts is either acceptance of draft, or cash payment with discount, by the buyer or his bank against surrender of shipping documents. The preliminary invoice forms the basis of payment. Differences are settled for later in cash.

European buyers of oversea products furnish acceptance through a London bank, the drafts being drawn at 60 to 90 days sight. In England sales are made against the buyers' acceptance, also on the basis of documents against payment, the payment being effected when the ship arrives, though the draft be not matured, and the draft is discounted because of earlier payment.

In arrival contracts the terms of payment rule which are current for local business under prevailing commercial usage.

C. *Contracts of the Exporter with the Manufacturer.*

In this connection we have in mind the merchant specializing in the export business and selling goods of all classes to oversea markets. Such exporters, from the point of view of the general range of products handled by them, are also known as general exporters. The exporter receives orders from his oversea customers or from his own oversea branches and buys the goods concerned from the manufacturer. This buying is mostly done for own account, less often on commission basis, and mostly direct from the manufacturer, less often through the medium of an export agent. The transactions involve a delivery contract in which the exporter plays the part of the buyer. But in view of the fact that he does not buy the goods for himself, or for his own stock at home, but for delivery abroad, certain deviations are to be found in such contracts between the exporter and the producer from ordinary sales contracts.

This form of contracts has its beginning generally in an inquiry sent by the exporter to the producer, asking him to quote for certain goods under certain prescribed conditions relating to packing, delivery, terms of payment, etc. In response to this inquiry the manufacturer may send a pro forma invoice or a letter complying with the request in the inquiry. Or the business may be initiated by an independent offer sent by the producer to the exporter. If the offer is binding, the exporter can

accept it by means of a brief letter of acceptance. Or finally the exporter may send the manufacturer a detailed order with specifications, signed by the exporter, stipulating certain conditions. The manufacturer accepts the order in a letter of confirmation, either repeating its details, or referring to the order by number and briefly reiterating its details. By such acceptance the manufacturer indicates his acceptance of the various conditions and instructions contained in the order.

The order may be the result of the acceptance of a binding firm offer, or it may be a business proposition of the exporter which becomes valid only through the acceptance and confirmation by the manufacturer.

The exporter's order is generally written on a blank with printed clauses which recite the prevailing conditions for the particular class of trade and for the particular market for which the goods are destined. Additional instructions may be included for the manufacturer's guidance, such as instructions, re-marking, special packing, the number of invoices required, etc.

Naturally enough the exporter aims to include among his conditions such clauses as would put the greater burden of the exporting risk upon the shoulders of the manufacturers. By indicating severe consequences for the lack of care in following instructions he may seek to induce the manufacturers to execute the order with the maximum of accuracy and he may also endeavor to prevent the possibility of being eliminated as middleman in future transactions with the final customer. In the latter particular there is growing up a more amicable attitude between the exporter and the manufacturer to the extent that both recognize the proper functions of the other.

The order bears a date and a number, generally with a serial letter. The manufacturer's invoices must always quote the order number and the mark prescribed.

The time of delivery is generally indicated at the port of shipment. It must be at that time at the disposal of the exporter ready for shipment to his customer. Frequently the name of the steamer and the day of its departure is indicated.

The grave consequences to the exporter of delay in shipment to his oversea customer lead him to emphasize the importance of delivery at the port of shipment in good time.

Of importance are the instructions with regard to the make-

up of the goods and to packing. The exporter is in close touch with his market, and his instructions as to packing are generally based upon his knowledge of requirements. The manufacturer will not lightly contravene these instructions, though he may be justified in charging extra for unusual packing, etc.

Instructions as to the marking of packages are also specified in the order.

In certain goods the exporter may demand that the inside packages be shipped in "neutral" packing or make-up, but this practice is gradually dying out among American manufacturers, as though their publicity efforts the customers overseas learn to demand special styles and packaging.

Delivery is effected either by sending the goods to the exporter by rail or surrendering them to the exporter's freight forwarder at the port of shipment.

The order must cite instructions for the making out of invoices.

The specimen of an export order form immediately following illustrates instructions for a shipment intended for the exporter's Australian trade.

SPECIMEN OF AN EXPORT FORM USED BY AMERICAN EXPORTERS IN PLACING ORDERS WITH MANUFACTURERS.

FRONT.

EXPORT ORDER FORM

(Name and address of exporter).

Mark
(Here appears the prescribed shipping mark.)

Order No.....
Order Number and Mark must appear on your Invoice.

Mark packages as above commencing with Number.....up.

Date.....

SHIP AT ONCE TO (Name of Port)

To (Name and Address of Manufacturer)

.....

THIS ORDER IS PLACED SUBJECT TO INSTRUCTIONS, TERMS AND CONDITIONS PRINTED ON THE REVERSE HEREOF.

(Here follows the body of the order, specifying quantities, classes of merchandise and unit prices, as for instance:)

500 cases Tin Plates, 1C 107 lbs., 14 x 20",
112 sheets to box, weight of box 107 lbs. net,
base price.....

(REVERSE.)

INSTRUCTIONS, TERMS AND CONDITIONS.

PACKING.

Goods to be closely and securely packed for Export, in Least Cubic Space.

MARKING.

Mark as given on the other side of this sheet to appear on all outside packages and on Railroad Bill of Lading. Do not mark on tags or cards.

FREIGHT CHARGES.

Must in all cases be **Prepaid** to New York. Even though your prices may be f.o.b. New York your invoice must show the prices at your factory and cartage and the freight to New York must be shown in addition to the factory prices.

BILLS OF LADING.

Signed Railroad Bills of Lading showing our Shipping Mark must accompany your invoices.

On Carload shipments Railroad Bill of Lading to be marked **"For Export, Lighterage Free."**

INVOICING.

Order Number, Date of Order, and Mark to appear on Invoices, which must be rendered in **Duplicate.** Memorandum of Weight, Measurement and Contents of each Package to accompany invoice. In order to comply with Australian Customs' Laws, it is necessary to show the cost of boxing or crating. You must make a separate charge of boxing. This, and the cartage from your factory to Railroad Depot and the freigth from Railroad Depot to New York must be shown on your invoice as an addition to your f.o.b. factory prices.

All Cash Discounts must be deducted in the same handwriting as the body of the invoice, as we pay all bills in the prescribed time.

The words Cash discount **must not** be used, simply the percentage stated.

PRINTED MATTER.

Any printed or advertising material enclosed with goods must be specified on invoice and net weight of same given. Any omission to specify the correct contents of packages may result in a serious penalty.

Suppliers must be prepared to pay the custom duty of 6d. per lb. in Australia and 3d. per lb. in New Zealand and 2d. per lb. in South Africa on any such advertising matter, unless same is asked for on our order.

DESCRIPTION OF GOODS.

Any widths, lengths, or weights stamped on goods or tickets or boxes, etc., or stated in bills or invoices must be actual and not nominal. Any description whatever of goods must be correct and accurate in every particular and must in no way be misleading.

We reserve the right to cancel this order any time prior to shipment.

Manufacturers guarantee in accepting this order, that the prices they will charge are their lowest cash Export Prices and that they have no arrangements covering the market to which these goods are to be shipped which prevent this. Goods shipped contrary to terms of this order at your risk.

PART II.

PROBLEMS OF MODERN AMERICAN EXPORT PRACTICE.

CHAPTER XIV.

The Problem of Foreign Credits.

General Statement.

The expression chosen as the heading for Chapters XIV—XVII conveys different ideas to different minds. From the point of view of manufacturers and exporters it suggests a study of those conditions and practices which permit them to utilize to the best advantage the existing banking facilities in selling to their customers abroad so that the latter may have the privilege of paying for their purchases at a convenient time after shipment, while the vendor is in a position, if he so desires, to secure cash at the time of shipment through the co-operation of banking institutions.

This, indeed, is properly a subject for consideration under the heading "The Problem of Foreign Credits," for even where the manufacturer receives cash payment when the goods are shipped, and the burden of financing is ostensibly on the bank, it is the standing of the manufacturer, plus the security of the goods in some instances, that stamps the transaction with its credit characteristic from the manufacturer's point of view. The foreign credit problem from this angle includes also a study of the need of credit accommodation in the export markets, the extent to which it is met by manufacturers of competing nations, the machinery of credit instruments, the existing banking facilities and their possible improvement or expansion.

But there is also a much broader field that is covered by the idea of the foreign credit problem. America has almost overnight become the great creditor nation of the world. From all sides come to America insistent pleas for credit on a scale so extensive that individual manufacturers and exporters cannot cope with them. The manufacturer has no capital to engage in financing all seekers for credit accommodation. If his capital

is properly employed it is fully engaged in the purchase of his materials, in the operating of his plants, in the payment of his labor and in the incidentals of such foreign merchandizing as he attends to direct. The latter item includes all the foreign financing which the manufacturer can properly undertake. It is here that the manufacturer will need to study the technique of financing foreign shipments, and it is here that the existing banking facilities and their extension are a subject of great interest to him.

Better equipped to deal with the financing of foreign shipments are those export merchants of old standing, very largely combining the functions of import merchants as well, whose entire business is built on that financing service which their customers in oversea markets stand so urgently in need of; further the great exporting companies which have sprung into existence in recent years and whose organization is thoroughly modern, having been devised to meet conditions as they exist to-day, and not shaped and molded by the forces of historic development. Such organizations are fully absorbed in the operations of merchandizing and of financing foreign shipments, and they do not carry on manufacturing enterprises primarily, though they may do so incidentally, to meet the needs of their merchandizing operations. These enterprises are face to face with the broader aspects of the foreign credit problem, and they must be keenly alive to the abnormal conditions which have set in following the termination of the world war and as the result of it.

But it is the banking community at large, as representing the investing interests of the nation, and as a guardian of its financial fortunes that faces the foreign credit problem in its most significant, in its broadest aspect. It provides facilities for the individual manufacturer and the individual shipment, and here the interest of the individual manufacturer ends, but it also faces an aggregate problem and new conditions of bewildering uncertainty; it copes with the great task of adequately meeting the needs of a newly born credit nation, with a clamor for financing that comes from new sources, presenting a perplexing mixture of conflicting interests. The banking community must create precedents: it finds none to guide it. It must devise means to cope with the situation. It must guide the investors of the na-

tion in new and untried paths, and it must make these paths secure. The foreign credit problem of America is thus something vastly more extensive and significant than the problem of the individual manufacturers.

Intended as a study in export practice, our consideration must be directed primarily to the problems of the manufacturer and the exporter. In his monograph on "Foreign Credits" (Department of Commerce, Special Agents Series 62) the author furnished a description of the export credit methods of German and British manufacturers and of the machinery provided by the German and the British banks in financing foreign shipments. The credit methods and problems of the American manufacturers were also discussed. Since the writing of that monograph the Federal Reserve System came into existence; a greater elasticity in handling bank acceptances has been provided; a market for acceptances, far from broad as yet though it be, has been created; American banks have established branches in foreign countries; the world war has been fought and won, terminating with at least a temporary crippling of one of the three greatest exporting nations as a competitor in the world's markets. America has become a creditor nation.

We will then rehearse in our present consideration the historic development of the export credit methods of Germany, England and the United States; will then pass to the consideration of the improvements rendered possible in American export credit methods through the legislation of recent years, and will endeavor to determine to what extent these improvements meet the needs of to-day, and how they might be supplemented by further improvements; there are also the broader aspects of the credit problem from the point of view of the entire nation, from the point of view of the investor, and from the point of view of the banking community as the financial exponent of the nation and of the investing public. But to enter upon a discussion of these broader aspects would take us beyond our limitations as a text-book of the theory and of the practice of international commerce.

We arrive then at the following subdivision of the general subject:

The Problem of Foreign Credits.

A. The German Methods of Financing Foreign Shipments
   1. The historic development of German export methods.
   2. The technique of financing foreign shipments in Germany.
   3. German banks and the financing of foreign shipments.
   4. The advantages and the defects of the German methods of financing foreign shipments.

B. The British Methods of Financing Foreign Shipments.

C. The Foreign Credit Problem in America Before the Enactment of the Federal Reserve Act.
   1. The American exporter and the problem of foreign credits before 1914.
   2. Credit information.
   3. The American banks and their service to exporters before the enactment of the Federal Reserve Act.

D. Financing Foreign Shipments in America Since the Enactment of the Federal Reserve Act.
   1. The Federal Reserve System as affecting the financing of foreign shipments.
   2. American banks and their service to exporters since the enactment of the Federal Reserve Act.
   3. Present day facilities of American banks in financing foreign shipments.

A. German Methods of Financing Foreign Shipments.

1) *The Historic Development of German Export Methods.*

Generally speaking it is an admitted fact that during the three decades immediately preceding the World War the German commercial organization met the need for credit extension in oversea commerce more efficiently and with greater satisfaction to seekers of credit than either the British or the American commercial organization. Much of German success in oversea commerce was directly due to this readiness and ability to finance foreign business to the fullest extent required by circumstances, and to study conditions through a well organized network of establishments throughout the world.

It is yet impossible to estimate accurately the degree of elimination of Germany as a competitive factor in the world trade. It is equally impossible to foretell to what extent—if any—Germany's economic ruin as the result of the self-invited disaster in the field of battle will affect her ability to continue her old time tactics in the field of commerce, more particularly with regard to the extension of credits as a means of securing trade.

But the need of credit in international transactions will not be diminished, on the contrary it will be greatly increased in the important period of reconstruction and re-adjustment. The foreign credit problem which in the last decade assumed much importance with the international traders in America, has been complicated not only by the speculation as to the means of replacing the German element in the economy of international commerce, but likewise by the addition of new commonwealths the commerce of which will be eagerly sought after by all exporting nations, and whose need of credit is even more pronounced than that of the classical lands of long credits—Central and South America.

Some of the countries which hitherto claimed credit to a limited extent will seek credit extension now for materials used in reconstruction.

This complicates the foreign credit problem from the point of view of the American manufacturer and exporter. On the other hand several changes in the machinery of financing have taken place in recent years in the United States. The Federal Reserve System has come into existence and has introduced a number of important extensions in the use of facilities for financing foreign business. American banks have opened branches abroad. Important legistlation for export financing is now pending. Largely due to the abnormal conditions during the war, American manufacturers who had never before exported, have been able to export and have learned to appreciate foreign business. They are in it to stay. Materials which America had never been able to ship on a competing basis have been successfully marketed. American manufacturers and exporters are looking forward to a vast expansion of their foreign business, and desire to give due consideration to the foreign credit problem as an essential factor in international commerce.

In order to form an accurate opinion as to the proper attitude which manufacturers who export and export merchants should maintain to the credit problem of to-day, it is of importance to make a thorough study of the export methods which prevailed in Germany (which will show us who were the factors principally concerned in the granting of credits, how these credits were granted, and what—if any—features of these methods are worthy of adoption); further a study of British export methods (following the same view points); then a study of the progress made in America in the machinery for financing foreign shipments (which will take up the services now being furnished or planned by American banking institutions); and finally a study of the export credit problem from the point of view of the American manufacturer and exporter. This will enable us to draw some conclusions as to the proper policy to pursue in relation to the world's need of credit, always bearing in mind that while it is unwise to hope to build up a successful business adhering strictly to the old dogma "cash with order," it would be courting disaster to launch upon a policy of wide-open credits. Never in the history of commerce has the need for conservation of

credit resources been as vital as it is to-day. Never has the importance of the question—who is the proper grantor or credit? a question which is not secondary even to the question—who is the proper object of credit? been of such paramount importance. In the minds of many manufacturers, indeed, the word "credit" means nothing more than making use of the services of a bank in discounting drafts. But the credit problem of to-day in international commerce means a great deal more and has many angles which it will be well worth to study.

In 1913, as the result of much consular importunity (the consuls being keenly alive to the needs of the trade in the spheres of their activity) and of much outside advice in the press, the American manufacturers were greatly stirred up about the accusation that they did not maintain toward their oversea customers the same liberal attitude in the matter of credits as did their German competitors. The Department of Commerce commissioned the author to investigate the situation, and the results of the investigation were collated in his monograph on "Foreign Credits." A number of suggestions were made for the improvement in financing foreign shipments and for the extension of banking facilities. Some of the suggestions referring to banks were later adopted by law, and the service of American banks to American manufacturers in 1919 is vastly superior to that which they were able to extend under the inadequate legislation in former years. But the principal result of the investigation was to demonstrate clearly that as manufacturers, the Germans were no more liberal in granting credits overseas than their American competitors, and that Germany possessed an apparatus for financing foreign shipments, which had been built up in accordance with the historic development of the German penetration in the export fields. To duplicate this was neither possible nor advisable in American export trade.

Always bearing in mind the exposition in the earlier chapters of this work of the organization of trade in the importing countries, and the methods of distribution practised by the various classes of importers, we may benefit by a rehearsal of the subject-matter in the author's monograph on "Foreign Credits" as

it deals with German and British export methods, passing to a consideration of the present day foreign credit problem as it confronts the American exporting manufacturer and export merchant, and reviewing the present day machinery of American banks.

The German export trade to oversea countries was insignificant until about the middle of the eighteenth century, principally for the reason that the countries with colonial possessions maintained stringent laws prohibiting foreigners to trade with the colonies and excluding foreign firms from their ports. The colonies were forced to sell their produce to the motherland.

Owing to their favorable position, the Hansa cities of Germany, chief of them Hamburg, nevertheless did a flourishing business in distributing colonial products as middlemen, gathering them from English, Dutch, French, and Spanish ports.

At the end of the eighteenth century there commenced a gradual weakening of the exclusive colonial policy. The merchants of Hamburg began to do a large business with the American possessions of Spain under the cover of some relative naturalized in Spain or a Spanish employee. In 1797 the German traders profited by the concessions which the East India Co. had granted to Americans and started direct business relations with India.

The Declaration of Independence of the United States was a tremendous impetus to the merchants of Hamburg, Bremen, and Lubeck; for the first time German traders had an opportunity to establish branches of their business in an oversea country. And it is very clear that this policy of gaining foothold in oversea lands by establishing branch houses has been one of the most secure foundations of German success in the export trade.

The beginning of the nineteenth century was a period of retrogression, due to Napoleonic wars. Then came the independence of various Latin-American countries, which opened a new field for direct trading. At the end of the first quarter of the nineteenth century Hamburg was in direct and regular maritime relations with the east coast of South America, West Indies, Mexico, Central America, and the west and north coasts of South America. In 1843 the British-Chinese treaty opened the

Chinese treaty ports to the German trade by placing all foreign traders on a footing of equality. The Germans immediately established business houses in Canton, Hongkong, and elsewhere. Since 1813 foreigners have been free to trade with British India. In 1848 the Indian Government dropped discriminations against foreign flags in Indian ports and in 1859 against foreign goods in general. In Japan for a long time the distrust of foreigners prevented Germans from cultivating direct relations. In 1874 we find the first direct import from Japan into Germany. It was only after the formation of the German Empire that the German foreign trade with Asia began to grow at a remarkable rate of speed, but until then the political impotence of Hanseatic cities was a great obstacle to the development of their trade.

In Africa the first relations of the German exporters were with the islands off the African coast in the Atlantic Ocean; in the fourth decade of the nineteenth century the Germans founded settlements in Lagos and Liberia. Year after year the German traders extended their sphere of activity in Africa by a system of "peaceful penetration." We find them starting settlements on the East Coast of Zanzibar, and toward the end of the nineteenth century they had houses in Morocco.

In the earlier phase of the German export trade the German merchants made use of the British commercial sales organization which in the meanwhile had been built up in many oversea territories. The British merchants had been the first to organize their oversea trade on a systematic basis. Most importers and exporters in the export field in the early days were branches of British houses, but many of these British houses had been founded by citizens of Hanseatic cities who had emigrated to England, because trading under the British flag afforded them protection and a wider field of activity. The merchants in Hamburg began to do their export business through these British houses by sending consignments to their oversea branches. They had the assurance of honest dealings, and they could rely on a knowledge of local conditions on the part of the consignee.

It was particularly in American countries, in Asia, Australia, and South Africa, that the German export trade was built up on the co-operation of established merchants of other nationalities. In some few countries, especially along the coasts of East

and West Africa, the Hamburg merchants were pioneers and built up the first forms of commercial intercourse. Here a ship, laden with all sorts of the very cheapest merchandise, would be sent haphazard along the coast. A barter business with the natives would be attempted at first. Years might pass before another ship would touch at the same point.

Later the vessels would anchor at the mouths of rivers or anywhere along the coast where the surf would permit, and serve as warehouses for the reception of native produce. From these floating warehouses there was an easy transition to small permanent structures on shore. It was easy now to send ships at regular intervals for the replenishment of supplies. But the peddling of German goods here and the consignment of German goods there were only the prelude to a more rational and systematic method of reaching oversea markets.

The establishment of purely German business houses in export markets was the next logical step after the various disabilities of foreign traders in the different countries had gradually disappeared.

The first business ventures oversea were attempted by the Hanseatic houses in the United States of America and were the immediate cause of brisk business relations between the Germans and the United States. In 1845 there were 343 German business houses, not counting retail stores, in non-European countries: 134 in the United States, 48 in Mexico, 3 in Texas, 1 in Central America, 34 in the West Indies, 98 in South America, 14 in India and China, 11 in Africa.

The customers of these oversea branches were partly dealers, partly consumers. The purchases were made from stock after examination; payment was made in money. On the west and the east coasts of Africa there was a system of barter between the German trader and the consumer. Here the business resolved itself into a delivery of European goods and the acceptance of native products, and until the latter were disposed of the trader was not sure of his profits. He was forced, therefore, to put a very high value on his goods, a very low value on the native produce, and to exact very high prices for the latter on its arrival in Europe.

German trade with Australasia was for a long time insignificant, until the settlement of the Germans in Samoa and the other South Sea Islands gradually opened up an increasing business.

Leaving this brief geographical outline of the expansion of the German export trade, we may take up a cursory review of the development of the German export methods, from the first tentative stretching out for foreign markets up to the recent stage, with its vast network of foreign branches, agencies, and banks, with its remarkable organization, co-operation, and specialization at home and abroad—in brief, with its combination of all those elements which had contributed to the building up of German success and prestige in the export trade before the World War.

In the early history of the German export trade the merchant princes of the Hansa cities sent out expeditions in charge of super-cargoes to try their luck in oversea markets. These were hazardous ventures, while the safer and more legitimate business was carried on by these merchants with European countries. These expeditions ran the risk of annihilation by the powers of nature and man. The foreign men-of-war and the ruthless pirates which infested many seas were more to be dreaded than storms and shoals. When the ban against foreign trading was lifted, there was an immediate increase in these haphazard ventures, with the result that sometimes there was a superfluity of imports in markets incapable of assimilating them, and besides instances of fraud on the part of super-cargoes began to multiply at an alarming rate. This system could exist only as long as competition was dormant. With the growth of competition a less wasteful system was bound to develop.

The first exports from the Hanseatic cities to the United States and other oversea lands were German hand-made linen goods. In the early part of the nineteenth century the cheap linen and cotton products of the British and Belgian spinning mills crowded out the German linens from many quarters. But still the Germans sold large quantities of linen in Mexico, Cuba, Venezuela, Brazil, Porto Rico, etc. In addition, they exported glass and hardware and various textiles.

In the first half of the nineteenth century the oversea lands

were as yet undeveloped economically; many of them now export foodstuffs to Europe, but in those days the Hamburg merchants sold them salt meats, butter and cheese, beers and liquors. Lack of local transport facilities enabled the German merchants to trade in colonial goods even between the various oversea markets.

Thus, at a time when the German industries were at a low ebb the Hanseatic exporters still maintained their position abroad. The British industries furnished many products which the Hamburg merchants carried to Central and South America. The extra cost of shipment from England to Hamburg was slight. In 1848 England imposed discriminating duties against Brazilian and Cuban coffee and sugar, because of the employment of slaves, and the direct trade relations of Hamburg with Brazil and Cuba were greatly extended. During this period of export activity the merchant engaged in the oversea trade required a considerable capital for his operations. The export markets were hard to reach. To supply them with goods it was necessary to maintain branch establishments and depots abroad.

The improved means of communication, consisting first of regular sailing ships and later of steam-packet lines, between the exporting ports and the principal oversea ports revolutionized the export trade. The merchant was no longer forced to own or charter ships. The time required for getting the goods into the hands of foreign customers was minimized. Mail could be dispatched and looked for on regular dates. The opening of the Suez Canal brought the East almost to the door of Europe. Telegraph and cable connections completed the task of bringing the exporting nations and their foreign markets closer together.

This revolution, still recent even for our fast-living age, changed the following conditions in the export field: formerly the buyers of imported goods were dependent upon the available supply of these goods in the warehouses and stocks of the importers. It was difficult to replenish the stock. Shipments were made at rare intervals; the goods were chosen and dispatched by the shippers to correspond with the exporter's ideas as to the likely demand and the quality desired. Between shipments it was difficult to fill any emergency requirements. The importer could not accept his customer's order for goods he had not in stock,

for the reason that he could not assure the latter that the goods would be at hand in reasonable time.

The acceptance of orders and the facilities for filling them, of course, meant a tremendous economy. A wholesale establishment with varied stock could now be frequently replaced by a single representative with sample rooms and a staff of traveling salesmen calling on the customers in the minor points. However, in most instances the old branches were still maintained; the change was more noticeable in the creation of a large number of German export firms specializing in the filling of orders, requiring less capital than the old style houses, doing business on a commission basis and bearing no risk with regard to the disposal of the goods. The amount of capital invested by this new type of export houses depended upon arrangements with the manufacturer as to the payment for the goods supplied and with the oversea customer in whose behalf the goods were bought.

The old style export merchant had four distinct functions: He exported merchandise from Europe; he imported foreign produce into Europe; through his foreign branch he imported merchandise into foreign countries; he also exported produce through this same branch from foreign countries. The new type of export firms devoted themselves to export exclusively; instead of dealing with branches of their own abroad they had to deal with independent factors, the foreign importers.

While as a matter of national economics the exports of cotton goods, for instance, may be still considered as being balanced by shipments of coffee or some other produce from across the sea, in private trading this is no longer the case. Nevertheless, it is obvious that the cotton-goods shipments are paid for by credits arising in this instance from the export of coffee. There were before the world war in Germany export houses with branches of their own in Latin-American countries, in the Far East, in West and East Africa, and there were also many export merchants without such branches as well as independent exclusive import merchants. In 1905 there were 2,186 listed export and import houses in Germany, of which 1,051 were doing exclusively an export business, 118 exclusively an import business, and 752 both an export and import business. Positive data regarding the remainder are lacking. Out of 923 Hamburg mer-

chants in the foreign trade listed in the same year the figures were 252, 35, and 636, respectively.

The German export merchants, principally those in Hamburg, having branches of their own in tropical countries, were importers of palm kernels, palm oil, African rubber, and copra. Export merchants having no branches of their own abroad were at the same time large importers of coffee, cocoa, skins, rubber from Latin-America, and spices from the Dutch East Indies.

Up to this stage in the history of the German export trade the export merchant had been the undisputed distributer of manufactures in the foreign markets. This condition is typical, as a matter of fact, of all exporting nations. Only later the German manufacturer conceived the ambitious idea of eliminating him as a factor. The manufacturers, and the champions of "direct" trading, considered the export merchant as a parasite fattening on the ignorance of the manufacturer regarding foreign conditions. The export interests, on the other hand, claimed that the export merchant was an absolutely essential link in commercial relations between manufacturers and the foreign buyers.

Where the foreigner barters his produce for foreign merchandise the position of the export merchant is unassailable. Where the foreign buyer has advanced economically so far as to be able to contract for his requirements independently, what need is there of an export merchant? The German exporter could point out the following avenues of usefulness: The buyer in the export market may require varying quantities of merchandise from a considerable number of sources. In many instances he could not begin to import direct certain classes of German goods, such, for instance, as are manufactured by a number of small producers, goods of Solingen and Remscheid manufacture, certain German leather goods, toys, notions, textiles. These manufacturers are individually too small to export direct. The principal merit of the exporter, however, is that he relieves the manufacturer of the risk of granting credit to foreign customers. We discuss this subject at length in the earlier chapters of this work.

Let us revert for a moment to the general status of the German export merchant in 1914 before taking up his place in the financing of German export shipments. The principal ex-

port merchants of Germany were located in Hamburg. These attended to what is known in Germany as the "oversea" trade, in distinction from export trade by rail to other European countries. Sweden and Norway, even, were not regarded as "oversea" markets. The exporters cultivating the trade of the European countries were, in addition, frequently located near the centers of production of the various classes of manufactured goods and not necessarily in Hamburg or Bremen.

Next to the export merchants there were found in Hamburg the so-called export agents, whose business was to keep the export merchants posted with regard to the products of their principals. These export agents maintained large sample rooms and frequently represented a great number of manufacturers in the most varied trades. The export merchant could not possibly know everything about the different goods ordered through him by the foreign buyer. The export agent knew his particular lines and was relied upon by the export merchant to enlighten him. Every export merchant in Hamburg had classified lists of these agents. Both the export merchants and the export agents had their own associations, and their relations were regulated by a well-recognized code of usage. The export agent generally received only 1 per cent on the gross turnover, and this system provided for Germany a satisfactory and economical medium between the export merchant and manufacturer.

The German manufacturer doing an export business either entrusted the export merchant with the task of pushing his goods in the export field, which was done by means of sending out catalogues, samples, price lists, etc. (mostly "neutral," that is, without revealing the name of the manufacturer), or he merely contented himself with accepting the orders turned over to him by export merchants, relying on his established connections with these merchants or on the canvassing efforts of the export agent, or both. The small manufacturer in Germany seldom dreamt of installing his own sales organization for foreign markets. Only the big manufacturer with an outlet for his goods in some special geographically well-defined market could undertake to do so. The so-called "kartells," combinations of producers of raw and semi-manufactured products, were also in a position to establish selling branches of their own abroad, to maintain travel-

ing salesmen, and to push their goods through agents of their own.

The German manufacturer, striving as he was for "direct" trading, was not equipped for it. There was an unmistakable tendency to eliminate the export merchants, but the realization of the difficulties in the way curbed it considerably. The manufacturer who had tried "direct" trading and had "burned his fingers" found little sympathy from the export merchant. His example was held up as a terrible warning, and the export merchant asked with a considerable amount of logic: "Does it pay to deal direct and run the risks of loss, if by taking advantage of a strong existing sales organization with a knowledge of local conditions such as the manufacturer could never hope to rival, the risk may be entirely eliminated?"

But the German manufacturer sought to increase his foreign sales and he could not content himself by receiving chance orders. He had the opportunity of making sole selling arrangements with export merchants for certain special markets. In this case the export merchant was bound to sell no article competing with his principal's goods. The manufacturer paid the export merchant a commission agreed upon whether orders were received direct or through the export merchant, provided they came from the territory assigned to the latter. The costs of traveling salesmen were thus distributed among a certain number of non-competing manufacturers. The traveling salesmen sought to push the lines they represented to the best of their ability. The export merchant relieved the manufacturer of all the routine of shipping and was in fact the manufacturer's "export department."

It has been mentioned that one of the principal functions of the export merchant is to relieve the manufacturer of the risk of foreign credit. This risk, of course, is considerable. The German manufacturer was still less able than his American or British competitors to finance the purchasing operations of a large number of foreign buyers, to wait months for the receipt of funds, to run the risk of the foreign customer refusing to receive the goods or to pay for them. In order to be able to keep on manufacturing, the German manufacturer wanted the capital invested in the manufacture of his goods returned to him

with considerable promptness in the shape of money. This is true of manufacturers in all countries, but particularly so of German manufacturers, since the employment of industrial credit in Germany was exceedingly widespread and manufacturers worked to a large extent with "other people's money."

The foreign customer is unable to pay cash for his goods. If the foreign customer does not command adequate means at home, or has at his disposal a reasonably cheap credit, he must postpone the payment for his purchases until he has disposed of his imports or received the value of his exports.

The German export merchant through his branches within the sphere of his activity was in touch with the customer. He had the means to finance the foreigner's imports, either through his own capital or with the assistance of the banks.

We shall have the opportunity of examining minutely the question of these credit dealings, but we may here state that the long-term credits granted by the Germans in Latin-America and the Far East, and in fact in almost all export markets, were not credits granted by manufacturers, but by the export merchants with or without the financial assistance of certain banks. Excepting in the European countries, German manufacturers seldom, if ever, granted direct credit to foreign customers.

The export merchant paid the manufacturer in cash. This meant in Germany cash within 30 days. All Hamburg export merchants settled with manufacturers within 30 days. This was considered "cash," because the time was taken not for the sake of credit but for the sake of convenience. The export merchant wanted to have the goods in his possession before he paid. Nor did he utilize the entire 30 days, but made a practice of paying on the 10th, 15th, last, or any other special day of the month following the purchase, because it was more convenient to pay all such invoices at one time.

Of course, there were exceptions to this rule. In the machinery trade, particularly where machines were built to order, one-third of the purchase price was paid by the exporter to the manufacturer with order, the balance when the machine was received by the exporter or his agent. Certain goods were "cash" lines, demanding payment on the week day following the transaction. These were principally mining and agricultural products.

German ore, foreign goods such as nitrates, coffee, tea, cotton, and oils, which the exporter bought for resale to other export markets, were settled for in "cash," while the foreign buyers were granted time within which they might settle.

With regard to standard terms of payment for this or that class of products, the German manufacturers had been unable to do much that is definite. Flirting with "direct" trade as some of them were, they turned to the German export merchant for prompt and precise settlement. On the other hand, the German "kartells," being, as has been mentioned, combinations of producers of raw and semi-manufactured products, did a great deal to standardize their credit terms from time to time, dependent upon production, demand, and various local conditions.

We have noticed that the financing of foreign shipments from Germany was attended to by Germans through credit granted by the export merchants to their oversea customers. The time is inevitably coming, though it may be distant as yet, when the so-called export markets will have become economically so independent as to be able to finance their own foreign purchases. When that day comes, the export merchant will have ceased to be an economic factor. Cash or short-term credit will prevail, and there will be nothing in the way of a manufacturer conducting a vastly increased direct business with oversea countries.

Thus the trade of Germany with the United States before the war became a cash or short-term credit business. Middlemen, where used at all, were used for the sake of convenience, but not for the purpose of financing the trade. American customers, therefore, also received the benefit of much lower prices in Germany than those quoted by Germans to their oversea customers requiring long-term credit.

2. *The Technique of Financing Foreign Shipments in Germany.*

In Chapter XII, under terms of payment, we discussed the meaning of the various credit terms. We referred to open credits and secured credits. We found open credits proper to relate to individual transactions. What is known generally as "open

credit" in international commerce, however, is frequently an account current relationship.

Such open credit is really a matter of bookkeeping. The merchant or manufacturer supplies the goods to his customer, debits him with the amount of invoice, credits him with the amount of payments, and charges him interest for the time the credit is used. Open credit presupposes a thorough confidence reposed by the seller in the buyer.

What does "open credit" really mean? In the relations between the German exporters and the importers in the oversa countries it meant a continuous supplying of goods, subject to notice, within the limits of a certain agreed upon ledger credit. The credit agreed upon might be 100,000 marks. The customer might order goods to this amount paying when he pleased within the limits of a certain period, usually six months. (See Chapter XII.)

Frequently the customer exceeds the limit agreed upon. He may have ordered goods to the extent of the credit granted him, and before he has had an opportunity to settle, he places orders for a further supply of goods, but it is generally understood that the credit is to be turned over at least twice per annum.

The customer grants to the crditor a purchasing commission of 3 to 5 per cent, varying in accordance with the goods, which would work out in the example assumed here, at about 10 per cent per annum on 100,000 marks, the credit being turned over twice.

In addition, the customer pays interest from the date of the invoice or the bill of lading, generally at 6 per cent per annum. This is the ruling rate of interest in dealings between the German exporters and their customers overseas. It will be noted that this rate does not depend upon the standing of the customers. The varying degrees of the financial standing are reflected in the prices quoted them, and not in the rate of interest. Other ways of providing for the varying degrees of risk are by an increase in the commission, as well as by adjusting the scope of credit granted. Six months, as has been mentioned, is the usual period, but in many cases 6 to 9 months is granted, dating from the date of the invoice or of the bill of lading. In order to prevent unwarranted excesses of the time limit, a special commission of

one-half to 1 per cent on the amount of the invoice is frequently agreed upon for the extra time taken, or an increased rate of interest is stipulated. On the whole, these extra commissions and interest charges are more in the nature of a handle to be used for inducing promptness than a means really resorted to in practice.

The German exporter not only charges his customer with interest at the rate of 6 per cent on his debits, but also credits him at the same rate of interest for his credits. Sometimes a special arrangement is made, for the customer may keep a credit balance for a long time with the exporter, while the latter can procure funds at a lower rate than that he pays his customer.

In the case of credit by means of drafts it does not often happen that the exporter will enter a contract to grant such credits to any particular limit.

The foreign customer orders goods to a certain value, the German exporter draws on the customer, and when the draft is paid the debt of the customer is extinguished. It is not usual to include in the credit the time before the customer gets his goods. The drafts are drawn at a certain period after sight. When the draft reaches the customer before the arrival of the goods, the acceptance is withheld until the goods arrive. In South America the shipping documents are frequently delivered direct to the customer, which, of course, is a mark of great confidence, but mostly these papers are sent to a third party, a bank or a forwarding agency. In this case, the third party must be notified not to insist on acceptance until the arrival of the goods. (The shipping documents, of course, include the bill of lading, an insurance policy or certificate, and a copy of the invoice. There are in most countries certain regulations with regard to consular invoices as well.) The instructions in the case of these drafts generally read: "Present for acceptance on the arrival of steamship ————."

Where the draft is drawn payable at sight, no credit has been really granted, excepting that the exporter has undertaken to wait until the goods reach the customer. Generally the draft is drawn for a certain period of time after sight, and this length of credit varies considerably. It depends upon the line of goods, upon the standing of the customer, upon a hundred and one spe-

cial individual circumstances. For this reason there is no such thing as "standard terms" in Germany, except along most general lines.

Many American manufacturers do not realize the essential "credit" element of transactions on the basis of drafts drawn on foreign customers and discounted by banks. The exporter has received an order; he purchases the goods covered by this order from the manufacturer, and should the customer change his mind the exporter may suffer loss. Or the customer refuses to accept the goods, and the exporter may again suffer a loss. Or the customer may accept the goods and the draft, but fail to pay, and the exporter once more is the loser. In this examination of German methods we continually and advisedly speak of "exporters," because the German manufacturers do very little "direct" exporting. We also speak of "export markets" rather than of "foreign countries," because of the very marked distinction in the status of purchases, on the one hand, by manufacturing countries, such as France, England, etc., and of other European countries, such as Denmark and Holland, so easily reached by rail from Germany, and, on the other hand, with China or Africa or South America, which are essentially "export markets" or "oversea markets," as the Germans call them, and business with which had to be built up through export merchants having oversea connections.

To return to the credit element of transactions on the basis of drafts drawn on the customer abroad, the turning over of the bill of lading vests the property right to the goods in the customer. The customer either pays the value of the draft in cash ("documents against payment," abbreviated d/p) or accepts the draft for payment at some future date, which is the more customary course ("documents against acceptance," d/a). Even in the case of d/p drafts, payment by the customer may be postponed; instead of paying cash he accepts the draft at one to three months, but neither the documents nor the goods are turned over to him. He may want to wait until he has sold the goods, on the basis of samples, perhaps, and the goods are warehoused until he can pay the amount of the draft into the bank or to the forwarding agency. This is frequently done in the Far East. Here the banks maintain so-called "godowns" for this purpose.

The goods are occasionally turned over to the customer for warehousing purposes against the so-called "trust receipt." One important feature of "acceptance" of the draft by the customer is the fact that it forms an acknowledgment of indebtedness, which it is then unnecessary to prove item by item in case of litigation. In most countries acceptances are far simpler to collect judicially than open accounts. When an accepted draft is unpaid it is "protested," and the debtors may be proceeded against without further trouble.

Frequently open accounts may be neglected by a customer who may find himself for some reason short of immediately available funds, but to neglect the payment of an accepted draft is regarded in the trade and by banks as so serious a matter that the drawee would lose caste with the banks; oversea buyers endeavor in most cases to honor accepted drafts.

While, as remarked, there is no such thing as "standard terms," whether granted by Germans or by any other exporters, for the reasons already mentioned, certain general data with regard to the customary length of time drafts may nevertheless be given.

The customary length of German drafts on oversea countries before the war is given below:

South America: 3, 4, 6, 9, and 12 months; most frequently 3 and 6 months.

Central America and West Indies: 4, 6, and 9 months.

Australia: 30, 60, 90, and 120 days.

China and Japan: Mostly 3 months; also 2, 4, and 6 months.

Dutch East Indies and Straits Settlements: 30, 60, 90, and 120 days, up to 6 months.

British India: 30, 60, 90, and 120 days.

South Africa: 60, 90, and 120 days, up to 6 months.

West Africa and East Africa: 30, 60, 90, and 120 days.

Northern Africa and Asia Minor: 4 to 9 months.

Drafts, even if drawn and accepted for a certain time "after sight," were frequently extended and renewed by German creditors. German exporters were also occasionally forced to sue because of non-payment of accepted drafts, in the case of sales to financially weak concerns or firms whose standing had undergone a sudden deterioration. Business on the basis of "drafts,"

even if discounted by banks, is always a credit business and not a cash business, as is imagined by many American manufacturers.

Payment is the final element concluding a credit transaction. In the case of open credit, it was customary in the early stages of the export trade to wipe off debits for goods shipped by credits in the shape of shipments of native produce. The value of the shipments going either way had to be booked in some currency agreed upon. We will see later, when we come to discuss the position of London as the center of the foreign exchange, what causes contributed to the domination of the sterling currency, the English pounds sterling, in international financial transactions. In Germany the currencies in which export shipments were paid before the war, and had been for some time, were the German, the English, and the French. Until 1873 all the transactions between German exporters and their independent customers overseas were in pounds sterling, while with their own branches they were booked in marks.

At this point the reasons why the German exporters found it necessary to adopt the sterling currency in their dealings with oversea customers may be stated. In the first instance, the Hamburg exporters had originally to pay in pounds sterling for the goods sent overseas. They bought goods for oversea shipment in London. The foreign customer sent native produce in payment, and the German exporter sold this produce mostly to England. The customer had also opportunities of settling his indebtedness with the German exporter by purchasing locally a bills on London, they being just as good as cash. These bills creditors of English importers in connection with their own shipments to England. The German merchant eagerly accepted these bills on London, they being just as good as cash. These bills on London were readily convertible into marks, or he could use them to pay for his own purchases in England. In the course of time the German mark gained a prominent place alongside of the sterling in German oversea transactions, particularly since German products and manufacturers began to play an increasingly important part in the range of German exports. Still, owing to London's eminent position in the world market and the preference of oversea customers, the sterling currency, which was

a perfectly well-known quantity overseas, was almost universally used by German exporters in their dealings with Australia, South Africa, China, Japan, and the British and Portuguese colonies in Africa. The mark was used to a larger extent than the sterling in German dealings with South American countries. It was almost exclusively used in transactions with the exporters' own branches overseas. In dealing with Egypt, Morocco, and Asia Minor the German exporters employed the French currency.

The oversea customer, being frequently an exporter of native produce, used his exports to pay his indebtedness to the German creditor. The creditor received the bills of lading, sold the goods, credited his oversea connections with the proceeds, deducting his selling commission of 1 to 3 per cent, his brokerage of one-half of 1 to 1½ per cent, and other expenses. The recipient of this class of native produce claimed no credit for himself, it being in the nature of so-called cash lines.

But in the course of time it became more customary to make settlement for these open-credit transactions by means of remittances, either by cable or by mail. The debtor could procure his remittance for the purpose of such settlements either from the local banks catering to foreign trade, or from the great local wholesale houses which may have still retained the banking feature, once a prominent characteristic of these houses, or from local exporters of native produce who may have become creditors of European importers.

Cable transfers of money were used when the debtor wished to utilize his time limit to the utmost. He might have to settle his indebtedness in 9 months, and the remittance might take 30 days to reach the creditor. By means of cable transfer he could secure an extra 30 days' time. Frequently the extra cost of cable transfer was less than the saving in interest.

In the case of mail remittances, the oversea customer instructed a business house with which he may have acquired a credit through purchase of a bill to pay a sum of money to the firm to which he was indebted, or he could buy from a local oversea bank an order on its European branch or correspondent, whence money was transmitted to the exporter.

These bills of oversea customers were drawn, therefore, on business houses or banks, were presented to them for acceptance,

and, according to their nature as sight bills, 30, 60, or 90 days' bills, were either cashed, held for maturity, or discounted. The bills received in Germany as remittances for open-credit transactions were principally bills on the great Hamburg bankers, bills on Hamburg branches of London banks, also on first-class private bankers and the so-called merchant bankers.

The rate of discount for prime paper of this description was arrived at in the Hamburg private discount market as the result of private conferences by the banks' exchange managers, there being two rates, one for bankers' acceptances and another for first-class commercial bills. Bills of minor bankers were very carefully scrutinized in the discount market, both with regard to the standing of the acceptor and the drawee. The standing of the drawer in this case was of little importance.

In Berlin only the so-called great banks were interested in discounting these foreign bills. Berlin's private bankers paid much less attention to the financing of foreign business than the Hamburg bankers.

It has been mentioned that the mark gained a prominent position alongside the sterling in German oversea transactions, but the sterling remittances via London overshadowed the mark remittances on Hamburg or Berlin even in the last years of Germany's pre-war export trade. The bills in either instance were generally 90 days' sight bills. Occasionally bills on Manchester and Liverpool business houses were received in Germany, but they were less eagerly sought than remittances on the London banks and merchant bankers.

The remittance bills were frequently, in fact generally, sold before the drawee's acceptance had been secured, the buyer relying on the indorsement of the seller, whose liability was established by law, but when the exchange happened to be unfavorable the seller could present the bill for acceptance and wait for a favorable opportunity before selling it. Next to bills on London, the favorite remittances in Germany were on Paris, and there were occasionally some bills on the United States and other countries. These were used rarely in settlements with Germany, as the remitter could mostly dispose of them to better advantage at home and purchase London or Hamburg bills.

The Hamburg exporter who wished to convert his time bills

into cash used the services of the bank or of the bill broker. In this instance the bill broker's services went somewhat beyond what is generally understood under such functions; he not only acted as a link between the demand and the supply for drafts, but by indorsing same became a guarantor. In fact, some of the wealthier German brokers bought time drafts for their own account as an investment, disposing of them as the market may favor them in such transactions.

Unsold bills were frequently sent by German exporters to London and Paris to make up payments or to have them discounted at a special rate of discount with the exporters' private banking connections.

The exporter debited his oversea customer with interest at the rate of 6 per cent until the day the bill matured although he could discount the same at any time, and any margin secured thereby formed one of the exporter's profits.

We have been speaking of payment by the foreign customer in the shape of remittances sent to Germany, and will now take up the German methods of dealing with drafts drawn on foreign countries. Naturally much of what is said regarding drafts drawn by German parallels the practice in the United States.

First to be considered is the manner of drawing drafts and then the subject of German banks catering to the oversea trade. Only when the position of these banks is clearly understood is it possible to realize the advantages possessed by the Germans in granting credit abroad.

In financial transactions between parties residing in two different countries payment may be effected in the funds current in the land where the debtor resides, or in the currency of the creditor's country, or in some other currency agreed upon. The debtor abroad is expected to furnish the equivalent of the draft, either in the currency in which it is drawn or in his own national funds forming an equivalent. The prevalence of the sterling currency in oversea transactions, which has attained an international character, such as, for instance, a universal international language might have, is responsible for the almost universal use at one time of the sterling as the currency of foreign drafts.

The Germans drew in sterling on customers in Australia, South Africa, and other English colonies. With regard to other

countries, they differentiated between colonies of European nations having a gold standard (drawing on these colonies in their national currency), countries having a gold exchange, and those whose national currency was subject to fluctuations. While South American States still held to the unstable paper currency, the Germans never drew drafts in South American money. Even later they seldom did so, and where they did, they expressly called for payment in gold.

With regard to the Asiatic trade, in India the rupee having been stabilized, there were many German drafts in rupees; Japan also introduced the gold standard. The fluctuations both in rupees and in yen being slight, the exporter could draw in both currencies without risk. China is the only great Asiatic country with an unstable currency.

In the days when the rupee was an uncertain quantity the German exporter was accustomed to take out an exchange insurance to protect himself against possible loss. This insurance was effected by the English banks with Indian branches. The European offices of these banks paid the German exporters in gold. The important position of the rupee in the German-Indian trade relations was due to the fact that the banks would not undertake to insure the native Indian buyer against exchange fluctuation, but were willing to extend this accomodation to the German, and, on the other hand, figuring in rupees was an easier matter for the native Indian customers. This desire to avoid figuring and calculating has brought about the so-called "all-round rates," which we might call "laid-down rates," forming a price including transport and insurance, landing and customs charges, exporter's profit, and the commission of two brokers, the selling commission of the buyer in India, and the discount he would have to grant to his own customer. The willingness of the Germans to meet the needs of their customers abroad is exemplified in this laborious price calculation for the benefit of the native Indians. It was certainly one of the many causes of the growth of the German trade.

To sum up, with regard to currency in which the Germans drew their drafts, it may be said that the Germans drew in pounds sterling on the Far East and West Africa, as well as on most British colonies, in pounds sterling and marks on Central

and South America, in rupees on India and East Africa, in francs on Asia Minor and North Africa.

A debtor in Cape Town, on whom a German exporter drew for £1,000, paid the banker presenting him with the draft the sum of £1,000 sterling, if we ignore for the moment such details as the banker's charges, and the transaction was completed. But a debtor in Buenos Aires to whom a similar draft was presented had to give the banker an equivalent, that is, enough Argentine pesos to make up, when remitted to Europe by draft, £1,000. What was the value of £1,000 sterling in Buenos Aires at the time the draft was presented? The current exchange rate decided this question. Now, there is in Buenos Aires a rate for sterling drafts drawn at sight and one for drafts drawn at 90 days. The debtor must pay out more of his national currency when figuring at the sight-draft basis than when figuring at a 90 days' sight draft basis, and therefore he prefers a later sight. If the conversion basis favors the debtor it is less advantageous for the creditor and vice versa. For this reason the drawer of the draft in Germany incorporated some such clause in the draft as "payable in the national currency at the drawing rate for 90 days' sight drafts on Hamburg, London, or Paris," in accordance with the currency in which the draft was made out. To make this clear, the drawer drew in pounds sterling, marks, or francs. The drawee furnished his own national currency. This currency must be remitted by the banker to the drawer in the funds asked for in the draft. The conversion of the national currency into that of the draft was made at the current rate for which bills could be bought locally on London, Hamburg, or Paris. And it cost the Argentine buyer less to buy a 90 days' bill on those places than a sight bill.

When the accepted draft matured it was presented to the drawee for payment. It was generally provided in the draft that the payment was to be made at the drawing rate of the bank presenting the draft, or he could be forced to furnish a bank draft drawn by an oversea bank on a European bank.

It frequently happened that there were no banks in the place in which the debtor resided in which case (and also frequently otherwise in the transactions between German exporters and customers in South America) the debtor was free to buy remit-

tances in the open market. This was very rarely done outside of South America in dealings with the German manufacturers. It was only in South America that the German exporter was likely to do business with a customer located where there were no banking accommodations. In the Far East the German exporter dealt only with a few prominent centers; In Australia and South Africa there was a network of banks.

When the German drew his drafts on an oversea customer he figured the loss of interest suffered by him in connection with the particular credit. He figured time lost in transit, in round figures, as so many one-fourth and one-half months. Particularly when the goods were shipped in a sailing ship, there was no telling when they might reach the consignee, although he may have accepted the draft on the arrival of the mail steamer. Sometimes a draft was drawn payable at a certain date, when the interest calculation was an easy matter, or again an agreement could be made whereby the drawee was debited with the interest for the time passed until acceptance. Then the drawer figured the period of credit granted. The last item the drawer had in mind was the time elapsing before the funds reached the creditor.

When payment was made by a cable transfer the last element was omitted. If the amount of the draft was settled by a bill payable so-and-so many days after sight, this element postponing the actual receipt of funds by the creditor was also taken into consideration. To sum up, then, the drawer figured the time of transit, the time to maturity of draft, the time of return voyage, and possibly the time to maturity of bill sent in settlement. The rate of interest was practically always 6 per cent per annum. For the remittance sent in settlement frequently a lower rate, based on the bank discount, was figured.

For certain countries the interest was not included in the face amount of the draft, being figured and accounted for separately. A special clause in the draft provided for this. The practice was general when dealing with English colonies having a sterling currency, with India, and with the Far East.

Returning to the example of a draft for £1,000 sterling on Cape Town; when this amount was paid at Cape Town it was worth less to the German exporter than a check for the same

amount payable in Hamburg. The banks buying drafts on South Africa and Australia enabled the exporter to provide for loss of interest, etc., by publishing rates at which they purchased these drafts. From these rates the exporter could see how much short of £1,000 the sum would be which he would eventually receive. But the rate of exchange might alter by the time payment was made, and therefore these drafts on South Africa and Australia were made out with the so-called exchange stipulation, reading "payable with exchange for negotiating bills on colonies and all stamp duties." Or the draft was made out "exchange to be added," and the exporter included the amount of stamps in the face value of the draft.

Similarly the banks published the rate of interest when buying drafts in European currency on Far East points. By adding the clause to the draft "payable with interest at — per cent per annum, added thereto, from date hereof to approximate date of arrival of remittance" in Hamburg or London, as the case may be (marks or pounds sterling), the exporter could dictate the rate of interest for the debtor. If he were to lessen this rate of interest, the exporter might receive from the bank less than the face value of the draft.

Where in the Far East the drawee received the documents "against payment" of the draft (d/p terms) instead of "against acceptance" (d/a terms) he was entitled to "rates of rebate," or the "repay," in accordance with such rates published by the local banks, in case he paid before the draft is due. The drawer had nothing to say in this matter, and the little differences, together with the discount rates, formed the profit of the banks.

In Central and South America, North Africa, West Africa, and East Africa these rebates were agreed upon between the drawer and the drawee. It was customary to rebate one-half of 1 per cent per month (6 per cent per annum) for such payment ahead of the date of the draft.

If the draft was made out in the currency of the drawee's land, the drawee paid the amount called for and the bank presenting the draft remitted it to the German exporter. If in foreign currency, the drawee supplied the bill which the bank presenting sent on to the exporter. Or, mostly, he paid the bank in accordance with the prevailing rate of exchange, in which case the

bank sent its own remittance, in the shape of a check or 90 days' sight draft on an English, German, or French place. This was the most customary method, being drafts drawn by oversea banks on European banks. The European bank notified the exporter of the receipt of settlement. If the remittance was in the shape of a Hamburg check, it turned over the amount to the exporter; if a time draft, it discounted same. If the remittances were on Hamburg and Berlin, the regular rate of discount was deducted where no special agreement was made; but since these were first-class bankers' drafts, the agreement was made frequently by which the banks gave the exporter the benefit of a special private discount. Remittances on Paris and London at three months were also generally accounted for immediately. But when the exporter needed foreign bills more than domestic money, he sent these Paris and London bills on to his foreign banking connections. The difference between the interest for the three months such remittances generally ran and the discount rate and the differences between the bank discount rate and the private discount rate were items of some minor importance which the shrewd exporters calculated for the increase of their profits.

Doing business by means of drafts drawn on customers necessitates the mediation of banks. A third party is expected to be entrusted with the shipping documents which are to be handed over to the customer on the performance of certain duties and finally to receive payment. This third party, as the holder of documents indorsed in blank, has the right to receive the goods. Where the draft is drawn to the order of this third party it has the right to demand payment as an indorser. It receives payment in place of the creditor.

Such third parties may be the managers of the exporter's own branches oversea, his agents, his business friends, occasionally traveling salesmen. But they were principally the oversea branches of German banks doing a foreign business or local foreign banks which were engaged in this business for German exporters. The exporter sent the draft with the documents to the bank overseas, or—which is the more customary method—he turned over the draft to a bank at home. The home bank and the foreign branch or correspondent were from the point of view of German commercial law one juridical person. In the

case of exporters located away from Hamburg and Berlin it was customary to turn over the draft to a home bank, whether or not it had a foreign agency or correspondent, and in the last named case the local bank made use of the mediation of another bank in Hamburg or Berlin which had agencies or correspondents overseas.

Mostly the drafts drawn by German exporters went to the European branches or agencies of oversea banks. At one time to say this was equivalent to saying that the drafts went to London. When the German banking system is discussed we shall see how the organization of the German foreign banks contributed to freeing Germany, at least in some measure, from absolute dependence on London in the financing of foreign shipments.

In latter years the Hamburg exporter turned over his draft to a bank in Hamburg. Here the German banks doing an oversea business had important branches; English foreign banks were also represented by agencies. Colonial and oversea banks were represented in Hamburg through arrangements with banks domiciled in that city.

Thus to the extent that the Hamburg exporter used the English bank agency at Hamburg the entire profit still added to the tribute paid to England as the great financier of foreign business, but the monopoly was no longer absolute immediately before the war.

The costs of collecting the draft were composed of the following items: the commission for the collection, postage, and revenue-stamp taxes. The latter included the German revenue stamp, the revenue stamp of the country where the collection was made, and, where the proceeds were returned in the shape of a counter remittance, the stamps on the latter. The last-named item, of course, refers to drafts drawn payable a certain time after sight. The postage item was specially figured on each transaction. The rates for collection were published by banks in the form of special tariffs.

These rates differed as the result of competition and also depended on the costs of the bank. Therefore rates for distant points were higher. In minor oversea points the bank used the services of agents and correspondents. The charges of the lat-

ter were generally included in the rates, but in some exceptional cases they figured as additional items.

The rates to export markets varied from one-eighth of 1 per cent to 2 per cent; one-fourth to one-half of 1 per cent was most usual. A minimum flat rate was always stipulated, varying from 1 to 7.50 marks, in accordance with the locality on which the draft was drawn, and was mostly from 2 to 3.50 marks.

If the draft was not honored at maturity the entire collection charges were borne by the exporter. To these had to be added the costs of protest and other expenses. In some rare instances the banks conceded 50 per cent of the charges in the event of non-collection.

The draft, as already mentioned, was accompanied by instructions with regard to the time of presentation (in the event of the draft arriving earlier than the goods), with regard to the turning over of documents (either against acceptance or against payment), with regard to protests and the disposal of the draft if dishonored, as well as with regard to the disposal of the shipment in the event of non-acceptance. The oversea bank received the sum due and furnished the drawee with the counter remittance, where the draft was drawn in the drawee's currency, or in some rare instances received from the drawee a remittance procured in the local market. When the European bank turned over the proceeds to the drawer the transaction was completed.

In the case of credits extended by means of drafts the capital of the exporter is tied up from the moment he has paid the manufacturer's invoice until the proceeds are received by him. In the rare instances where the German manufacturer sold overseas direct, the capital was tied up from the date of the invoice. The remittance released the tied up capital.

There are, however, two ways in which the drawer can come to his money sooner than in the course of events leading to the receipt of final proceeds of the draft. These methods consist of advances on drafts and of the discount of drafts by banks. Both of these transactions formed the bulk of the business of the German oversea banks.

The German banks doing business with the Far East and

the British colonies were the principal buyers of drafts in Germany. The German banks operating with Central and South America were the principal advancers on drafts in addition to acting purely as collectors of drafts.

While ordinary bank credit is based solely on the standing of the person to whom credit is granted, credit in connection with documentary drafts finds its material basis in the shipment against which the seller draws on the buyer. The advance made on a draft is in Germany from 50 to 90 per cent of the amount of the invoice, mostly 65 to 70 per cent, and in England up to 95 per cent. The smaller the amount given as advance, the better secured is the bank. The bank retains a lien on the goods, and in the case of trouble with the drawee it can dispose of the goods. Therefore it depends upon the nature of the goods how high the advance made by the bank will be. Staple articles command a higher position in this connection; textiles, being subject to changes or fashion, as well as other vicissitudes, are considered by banks a lower form of security. Where the documents are turned over to the drawee against payment, this, of course, fully secures the bank, but when they are turned over against acceptance, the latter assumes the place of security instead of the shipment.

The bank is, however, chiefly secured by the financial responsibility of the drawer to whom an advance is made. In case of any trouble with the drawee, the bank takes recourse to the firm to whom the advance was made, and only when this step is without success will the bank undertake to make use of its right of lien and sell the goods, if it still has possession of same.

These advances bore interest at a special rate, based on the loan rate of the Reichsbank, which was generally about 1 per cent above the bank discount rate. The banks generally insisted on a minimum interest rate and charged 1 per cent above the loan rate of the Reichsbank. The advance commission was between one-eigth and one-sixth of 1 per cent for the calendar month. The collection charges were either based on the published tariff or were subject to a special 50 per cent reduction in the case of drafts on which advance had been made. In dealings with the Far East sometimes the oversea bank loan rate

was taken as a basis, and occasionally in these cases the bank made no charge for collection or postage.

The advance may be made on an individual transaction, in which case the receipt of final proceeds terminates it. The exporter is then credited with the amount of the draft plus interest paid by the drawee, less the commission for collection, postage, and revenue stamps. He is debited with the advance plus interest until maturity and commission on the advance. The balance is paid over to the exporter.

Advances may also be made currently and a regular advance account may be opened by the bank for the exporter. Generally a maximum amount of current advances is agreed upon. The bank may grant the advance in cash, or it will permit the exporter to draw on it at 90 days' sight. An acceptance commission of one-fourth to one-half of 1 per cent is charged and the exporter disposes of the paper in the private discount market. *This is a facility which the American exporter lacked entirely before 1914, as it was not customary for American banks to create instruments of credit by stamping their acceptance on drafts.* This kind of credit is much less expensive than advance credit proper. Both the German and the English oversea banks make a specialty of this class of credit, and the English private discount rate is generally much more favorable for the exporter than the German rate.

In addition to advances on drafts, the German banks made advances on documents alone, mostly in the case of consignments sent by German exporters to their branches oversea. The goods are practically mortgaged to the bank, which obtains a letter of lien from the consignee, forming thet bank's security in place of the acceptance, and the consignee keeps a separate account for these goods, being bound to turn over the proceeds to the bank as soon as received. The consignee states in his letter of lien: " I hereby engage to receive and hold the said goods in trust on your behalf and to remit the proceeds as and when sold direct to you."

In addition to advances made by banks on drafts, drafts are occasionally, but rarely, bought by them outright. These drafts are generally in a currency foreign to that predominant in the land of the drawee. The draft bears but one signature, that of

the drawer. The responsibility of the drawer is the essential security. The place of the second signature is taken by the possession of the documents in the hands of the bank. In the Far East business the bank is at liberty to turn over the documents to the buyer either against payment or against the acceptance of draft, as it prefers. The bank does not buy this class of drafts to sell them again, but as a profitable investment.

The business of buying drafts differs in the following three great oversea groups: Central and South America, India and the Far East, and the British colonies. Owing to the prevalence of open credit, the buying of drafts is least extensive in the first of these markets. Again, this portion of the export field demands the longest credits. Taking a six months' draft on Brazil, it requires seven months (including the mailing) for the draft to mature, and then another month, and even more, for the proceeds to reach Germany; remittance is generally made in the shape of a time bill. This would really mean a very long term of credit, but the banks prefer not to buy drafts outright where the running time exceeds three or four months. Then again, here it is difficult to calculate the actual time of acceptance. The buyer also frequently arranges for an extension of time beyond that originally agreed on. Here, also, drafts against acceptance predominate, and the buying of drafts being based on the responsibility of drawers is naturally limited to a few of the richest exporters. These, in their turn, find much less expensive means for financing their shipments than by selling drafts to oversea banks.

In the ordinary course of discounting drafts there are two elements to be considered: The time until maturity and the discount rate. When drafts are bought on South America the total deductions are made in the shape of a certain percentage off the face value of the draft, so that it must be drawn with the two elements taken into account. It also must contain the collection commission, revenue-stamp expenses, and other small expenditures, such as postage. The German banks quote rates on the South American points at sight, and 30 days, 60 days, and 90 days after sight. The longer the bank is out of its money the less does the seller of the draft receive.

Drafts drawn on places where the buying bank has branches of its own fetch better prices for the seller of the draft. The price is reduced in the case of drafts on places where there are no branches of the bank in question, as the profit of the conversion of the draft into the legal tender of the drawee's domicile is lost to another bank.

The longer the time lost in transit the less is the purchase price of the draft. The deductions are less in the case of drafts on the east coast of South America as compared with the west coast, on the ports as compared with interior points.

Two elements enter into the determination of the discount of these drafts—the interest rate, which is generally 6 per cent, and the demand and supply of drafts on certain points. Drafts on Central and South America are generally settled for at destination by three months' paper.

It is in business with India and the Far East that the buying of drafts by German banks came to be most extensively employed. Here the interest payable by the customer was generally eliminated from the face value of the draft, which somewhat facilitated the routine. The terms of settlement were much shorter than in the South American business. The rates of interest were generally determined by the Hongkong & Shanghai Banking Corporation and were based on the position of the London money market as well as on the financial condition of the various countries in the Far East on which the drafts are drawn.

Buying rates for drafts on the principal points in Australia and New Zealand were singularly free from fluctuations. For a good many years before the war the discount was 1¾ per cent for sight drafts, 2¼ per cent for 30 days' sight drafts, 2¾ per cent for 60 days' sight drafts, 3¼ per cent for 90 days' sight drafts. These figures are based on a discount of 6 per cent per annum, about 1¾ months being figured for transit both ways. One of the reasons of the extensive buying of drafts on the British colonies is to be found in the reliable character and the financial solidity of the business houses in those countries.

Four banks—the Bank of Africa, the National Bank of

South Africa, the Standard Bank of South Africa, and the African Banking Corporation—fix the buying rate for bills on South Africa. The principal factor determining this rate is the London discount rate. When the bank discount rate in London was 4 per cent the rate for sight drafts on South Africa sold in Germany was one-half of 1 per cent, which, figuring on two months transit both ways, is on the basis of 6 per cent per annum. Another element here was the demand and the supply of bills. When the export of native products, gold, etc., from South Africa was heavy, and remittances had to be made to South Africans, the seller of drafts on South Africa naturally received better rates.

In the buying of drafts on foreign countries the German banks differentiated between drafts drawn in European and in oversea currencies. This is of particular importance in the Asiatic business. Here are two groups of countries—India, Japan, and Straits Settlements on the one hand, and China and Hongkong on the other. Drafts on the first set of countries are subject to small fluctuations; Japan has adopted the gold standard, India in 1899 introduced the gold guaranteed currency, and in 1904 the Straits Settlements dollar became independent of the price of silver. London fixes the quotation rates for merchandise drafts on Asiatic currency and the conversion into German money was effected at the day's rate of exchange. The German exporter asked: "What is the cost of a yen in European currencies?" The Japanese asked: "How much European currency can I get for a yen?"

Rates on drafts on China were dependent upon the London price for bar silver. The branches of London banks in China determine the rate at which they buy and sell on the receipt of cable information regarding the price of bar silver. As the price of bar silver rises, the value of the various taels rises in accordance with their content of silver.

It was the practice to turn over many drafts, probably most drafts on Central and South America to German banks for collection, and the bank's refusal to grant credit could be due to the drawer's lack of financial standing, and thus be a compulsory one. On the other hand, the drawer might have enough capital to finance his own shipments or he might procure his credit from

other and more favorable sources. It was a rare thing for German exporters to be so strong financially as to keep credit accommodations granted by them to their oversea customers within the limits of their own capital. But it was a frequent occurrence for them to obtain credit on a more favorable basis than by discounting drafts with the banks. Almost to the end of the nineteenth century London merchant bankers financed the Hamburg exporters who sold overseas on open account. These important houses, having at their disposal huge funds, often maintaining branches and business houses of their own in many oversea markets, were at one time the principal discounters, buyers, and sellers of international drafts, in addition to carrying on active commerce. Later they limited themselves purely to the financing of the import and the export trade of oversea countries.

In the course of the 30 or 35 years before the war the increase of German exporters, the rise of German foreign banks and Hamburg private bankers and merchant bankers, but most of all the opening of London branches of German banks admitting German commerce to the London money market, brought about increased credit facilities to the German exporter. The German banks doing a foreign business were but to a slight degree givers of personal credit to German exporters. Their activity was mostly limited to the negotiations of documentarily secured transactions with oversea markets. But the so-called great German banks, which, as will be seen later, were so closely allied with the banks doing a foreign business, undertook the problem of granting personal credit to exporters. Some individual English banks with branches in Hamburg added this feature to their work and also granted personal credit to German exporters.

This credit was available in two forms, as current-account business and as acceptance credit. The acceptance credit played a more prominent part in the work of private and merchant bankers, the current-account credit in the activities of the great German banks. In the former business the exporter was allowed a maximum limit of overdraft by checks, which he used in payment of his liabilities in Germany and elsewhere. The difference in interest on both sides of the ledger, the difference in the rate paid by the bank for money and charged by it to the customer

for accommodation, and a special commission for this accommodation formed the basis of the banker's profit in this class of business. The exporter, as debtor to the banker, paid in the current-account form of credit, interest at the rate of 1 per cent above the Reichsbank rate, with a minimum of 5 per cent, in addition to a commission of about one-eighth of 1 per cent for a month or fraction of a month, while as creditor he was credited with interest at the rate of 1 to 2 per cent under the Reichsbank rate.

The German creditor received on the debit side interest at the minimum rate of 4 per cent. The credit items were credited with interest at about 2 per cent less than the debit items. The account-current commission was claimed from the exceeding side of the account and amounts to one-fourth of 1 per cent per annum.

The exporter may not always utilize the maximum amount of credit granted him, but it is always at his disposal. This demands a tying up of capital on the part of the bank, for which reason merchant and private bankers pay less attention to the account-current business than to acceptance credit. In acceptance credit transactions the banker stamps his acceptance on the draft, and an excellent means is provided for the financing of exports without in any way tying up the banker's money. He lends his credit. The exporter using this credit obligates himself to cover the amount of acceptance, generally three days before maturity. The credit standing of the drawee makes the paper readily discountable in the private market. The judgment of the market prevents excesses through inflating the acceptance credit. When there is too much acceptance paper outstanding against this or that acceptor, the market reacts. And the granter of the credit naturally is careful not to do anything to shake the confidence of the market in himself.

Money procured through acceptance credit cost the debtor, after private discounting, a commission of one-fourth to one-half of 1 per cent for three months, revenue stamps, and brokerage. The exact amount of the acceptance commission was regulated by the desirability of the acceptance as determined by the open discount market. Accommodation through the account-current business was subject to the official discount rate and af-

fected by the bank's state of liquid assets. When the private discount rate was exceptionally low, say below 3 per cent, acceptance credit was much cheaper for the exporter than the account-current accommodation. Otherwise both were about equal.

We may now look into the activities of German banks before the war as granters of credit to oversea customers. If the latter were to pay cash for their purchases they would have to place funds in the port of shipment about the time of the shipment of the goods. This was generally the time when the shipper paid the German manufacturer. Such were the terms very frequently exacted by American manufacturers from their foreign customers. But the shipper is not the only man who runs risk in foreign transactions. The goods may not correspond with the order. They are seldom unpacked and examined in the ports. Delivery is made abroad. Cash in this instance is paid against documents. The invoice is turned over to some agent of the buyer. Payment is made by a bank out of funds to the credit of the foreign buyer. Occasionally the bank grants credit to the foreign importer. The latter pays the bank by means of drafts or checks. Or the bank accepts drafts drawn on the foreign customer. The granter of credit here is the bank, the recipient generally a European house overseas. The credit may be limited to some one particular shipment, the bank promising to honor the draft of the shipper. The accommodation is generally limited to some maximum amount. This relation is subject to immediate notice of cancellation on the part of the bank. This is frequently done in cases where the oversea importer wishes to use the service of an exporter whose paper the bank would not readily honor.

Or the exporter may demand a letter of credit from the oversea customer. Through its acceptance of drafts the bank becomes the debtor of the exporter. The advantage to the latter is that there is no recourse clause to the transaction. This class of credit to the oversea importer is cultivated by English and French bankers, as well as by some Hamburg, Bremen, and other German merchant bankers. The great German banks and oversea banks did not customarily enter into this class of business. This class of credit is personal to the oversea buyer and

is only to some extent covered by the shipment, unless it is secured to the banker by a letter of lien. The bank may maintain with its foreign client an account-current business, or may be paid from case to case by means of drafts which are disposed of in the market. The exporter does not bother about the credit standing of his customer, and particularly the manufacturers exporting direct and maintaining no special oversea organization make use of this method of financing foreign shipments.

Another form of financing foreign shipments which was usual in Germany is the del credere business. The bank undertakes a guarantee for the discharge of the buyer's obligation. But the capital of the exporter is tied up in the shipment. This was customary, for instance, in dealing with Siberia. Siberian banks undertaking the guarantee, on account of a thorough insight into the debtor's condition. These banks seldom entered into direct relations with German exporters, but mostly with Hamburg banks, who charged a commission of one-fourth to one-eighth of 1 per cent. The foreign bank had special arrangements with the buyer.

In the preceding paragraphs we have traced the history of German efforts to extend their relations with oversea markets. We have purposely refrained from entering into a discussion of their methods in penetrating into European countries where the proximity of the markets, easy railway connections, and years of direct commercial intercourse, unhindered by such restrictions as prevailed at one time in the colonies, have contributed to dealings independent of foreign mediation, roughly analogous to intercourse between the United States and Canada, if we overlook the difference in languages, which to the careful and thorough German, ever ready to learn foreign languages and customs, presented no obstacles.

We then undertook to study in detail the routine and the nature of various instruments of credit which have evolved from the desire of the buyer oversea to postpone his payments and the wish of the producers in Germany to receive promptly the funds due them. We have noted in passing the fact that the universal demand for credit in the oversea markets and the economic inability of the German manufacturers to do justice to it, placed

the bulk of the export trade of Germany with the oversea markets in the hands of export houses.

3. *German Banks and the Financing of Foreign Shipments.*

The aim of the German banking system with regard to foreign expansion was to assist the German export merchant in every way by facilitating export and providing food and employment for the domestic population, to develop the German colonies, to further German cable connections, to compete for a share in foreign loans, to found industrial enterprises abroad, to start and promote international commercial relations, to strengthen German influence in foreign countries, to assist German shipping, to found banks in foreign countries, and last, but not least, to pursue a careful financial policy for the purpose of a financial preparedness in the case of war.

The Deutsche Bank, founded in 1870, was the pioneer in this campaign of foreign expansion. In the status of this great bank the following outline of its export program is found:

"The object of the company is to carry on banking business of all kinds, particularly in the furtherance and facilitation of commercial relations between Germany, the other European countries, and with oversea markets."

Until the Deutsche Bank entered the field the German export trade depended absolutely on English mediation in the financing of foreign shipments. German acceptances, especially in view of the monetary conditions in Germany (absence of a uniform currency and of the gold standard), were discounted at an unfavorable rate as compared with the sterling bills.

The Deutsche Bank undertook to establish a credit footing in London, first by representation, then by participating in the foundation of the German Bank of London. The idea was to provide a buying place in London for German bills. In the extension of this idea the Deutsche Bank established agencies in Yokohama and Shanghai (1872). The German exporter could then figure his drafts in marks and the man in the Far East could pay the amount of the invoice in the same currency. The lack of the gold standard in Germany reacted unfavorably on the business of these agencies, and they were given up in 1874. Such

was also the fate of the La Plata (Argentine) Bank founded by the Disconto-Gesellschaft and taken over by the Deutsche Bank in 1874.

In 1871 the Deutsche Bank had branches in Hamburg and Bremen, an office in New York, in 1873 an agency in London. The efforts of the Deutsche Bank in branching out abroad were severely criticized in Germany. These efforts, however, finally freed Germany to a large extent of foreign mediation in the negotiation of drafts on foreign countries.

The Deutsche Bank did great work for the German trade by its efforts to secure to the mark a position or respect in international trade. A history of the gradual growth of this bank's connections is exceedingly instructive.

In 1886 the Deutsche Bank formed the Deutsche Ueberseeische Bank (German Oversea Bank), which became better known to Americans by its Spanish name Banco Aleman Transatlantico. The original capital of the latter was 10,000,000 marks; the aim of the bank was to cultivate South American business, more particularly the Argentine business. It was reorganized in 1893 with a capital of 20,000,000 marks, and the latter was increased in 1908 to 30,000,000 marks. This "daughter" bank has always paid good dividends, the annual rate from 1893 to 1911 being as follows: 6, 7, 9, 9, 8, 8, 8, 8, 8, 8, 8, 8, 8, 9, 9, 9, 9, 9, 9 per cent.

It has 23 branches—7 in Chile (Santiago, Antofagasta, Concepcion, Iquique, Temuco, Valdivia, Osorno); 5 in Argentina (Buenos Aires, Bahia Blanca, Cordoba, Mendoza, Tucuman); 4 in Peru (Lima, Callao, Trujillo, Arequipa). 1 in Montevideo, Uruguay; 2 in Spain (Barcelona and Madrid); 1 in Rio de Janeiro, Brazil.

The Deutsche Bank was part owner of the Mexikanische Bank für Handel und Industrie in Mexico City. In 1889 it financed, in company with other German banks, the Anatolian Railway in Turkey, with headquarters at Constantinople, Turkey. In the same year it participated in the launching of other important railway enterprises in the Turkish Empire. It also financed a number of State and railway issues in the United States.

Again, in 1889, it participated in the creation of the very important Deutsch-Asiatische Bank (engaged in the Far East

trade); in 1903 it took part with other banks in launching the Bagdad Railway to the Persian Gulf. Many railway and industrial companies were floated in East Africa, Central America, and other countries by or with the aid of the Deutsche Bank. It had a capital of 200,000,000 marks in 1914.

The next prominent of the so-called "great banks" of Germany in furthering foreign trade was the Disconto-Gesellschaft. It founded the La Plata Bank in Argentina, which was later liquidated; in 1880 a company for plantations in the South Sea Islands; in 1887 the Brasilianische Bank für Deutschland, with headquarters in Hamburg and five branches in Brazil (Rio de Janeiro, Sao Paulo, Santos, Porto Alegre, and Bahia). It had an interest in the Deutsch-Asiatische Bank, above referred to, in the bank of Ernesto Tornquist in Buenos Aires, in a bank in Belgium, another in Italy. In 1895 it founded a bank in Chile (Banco de Chile y Alemania), with headquarters in Hamburg and branches in Chile and a capital of 10,000,000 marks.

The Dresdner Bank was actively interested as founder in whole or in part of banks in Roumania and Bulgaria, for East Africa, for West Africa, and in a number of foreign railway enterprises, particularly the Great Venezuelan Railway. It was in close touch with J. P. Morgan & Co., of New York. In company with other banks it founded the great Deutsche Orient Bank for the trade with Egypt, Turkey, Greece, and Morocco. In 1905 it helped create the German-South American Bank, which had branches in Hamburg, Chile, Argentine, Brazil, and Mexico.

The other great banks of Germany interested in foreign trade were the Berliner Handelsgesellschaft, A. Schaaffhausen'scher Bank-Verein, Darmstaedter Bank (Bank für Handel und Industrie), and the National Bank für Deutschland.

In 1889, under the joint auspices of the above-named banks, was founded the Deutsch-Asiatische Bank at Shanghai, which had 13 branches in Berlin and Hamburg; Tientsin, Tsingtau, Hankow, Hongkong, Tsinanfu, Peking, and Canton, China; Yokohama and Kobe, Japan; Singapore, Straits Settlements, and Calcutta, India. Space forbids to mention in detail all of the varied foreign enterprises in which these banks were interested wholly or in part.

Within the scope of the present study the German banks

interest us only to the extent of their mediation in facilitating the financing of foreign shipments. A general review of the German banking system with its advantages and weaknesses has been given in various publications of the National Monetary Commission, but our brief survey would be incomplete without some reference to the Reichsbank, the great central bank of Germany, which was founded in 1875, and is a private bank, with private means, standing under the control of the State. It is a stock company, and in the eyes of the German law a juridical person, having for its object to regulate the entire money intercourse of the Empire, to facilitate settlements, and to provide for the utilization of available capitals. The capital of the Reichsbank is 180,000,000 marks, and on December 31, 1910, it had reserve funds amounting to 64,813,723.75 marks. The head of the Reichsbank is the German Chancellor, and he is assisted by directors who are appointed for life. There is an administration board consisting of the Chancellor and four members. The Reichsbank maintains 500 branches, and has the right to issue bank notes in Germany. The Reichsbank dictates the discount rate and the rate for loans, which are authoritative for all Germany and have been referred to frequently in speaking of rates in connection with drafts drawn in Germany on foreign countries and in foreign countries on Germany. The great banks of Germany are in constant intercourse with the Reichsbank, being so-called "giro" customers, which means that in place of making cash payments to one another they can use the Reichsbank as a clearing house.

4. *The Advantages and the Defects of the German Methods of Financing Foreign Shipments.*

Without referring again to the technique of the service rendered by the German banks to the German export trade, we may summarize the advantages and the disadvantages of the German credit methods in the export trade and fasten in our mind certain points in connection therewith, as far as they relate to prewar conditions.

1. The German manufacturer, as a rule, was not in a position to grant credit to customers in foreign countries, and was

hardly a factor in the export trade at all. The German export trade was largely in the hands of German export merchants. Very little direct dealing between German manufacturers and oversea customers was done.

2. The German manufacturers, however, showed a tendency to emancipate themselves from the mediation of the export merchants. Where long-term credits were a vital necessity the German manufacturers could not do business direct except as they were in special cases aided by banks.

3. The remarkable extent to which German industries were carried on by the use of credit was largely based on the participation of the great banks in a very great number of industrial enterprises. German banks were represented on the boards of directors in numerous undertakings of the most varied character throughout the Empire, giving them special support in their credit transactions.

4. The system of bank acceptances described in the preceding pages provided readily available credit facilities for the domestic industries, the import and the export trade. Thus the German manufacturers and exporters made use of long-term credits mostly by three months' drafts (renewable as need be) on banks with which they were in connection; these drafts were readily convertible into cash on the basis of discount rates fixed by the market, and they were thus in a position to grant credit themselves. Similar acceptances were also the subject of extensive official trading in London, whereas the notes of American manufacturers and other business firms until the organization of the Federal Reserve Bank system, and the liberal legislation and rulings with regard to bank acceptances concurrent with and subsequent to the establishment of the Federal Reserve Bank system were dealt in on a far more limited scale. The American holder of notes was at a great handicap, but a notable improvement has been brought up about in recent years, which will be reviewed in detail in the consideration of the present day facilities of American banks.

5. The sphere of activity of the German banks was much more extensive than that of either the American or the English banks, and they assisted their clients not only by granting credit, but also by discounting their long bills, granting loans and ad-

vances on raw material, shipments of manufactured goods, etc., opening or confirming commercial credits as required, guaranteeing prompt fulfilment of contracts, etc.

6. The German banks maintaining branches and connections overseas played an important part in the furtherance of the German export trade by enabling foreign customers to provide for the financing of their shipments from Germany and by the moral force of being on the spot and in close touch with the local trade conditions. At the same time they were in intimate touch through agencies and connections with London as the center of the international credit transactions. Yet these banks were not created originally so much as a means for better credit facilities overseas as with the object of participating in the financial activities of the countries within their territory.

7. The participation of German banks in the development of many foreign industrial, railway, and mining enterprises provided outlets for German exports.

8. The establishment of a network of German banks overseas saved to Germany a considerable portion of the tribute formerly paid to England in the negotiation of foreign bills.

9. London, however, up to the beginning of the World War was still the leading center of financial exchange, and in dealing with British dominions Germany still had to look to London for mediation. German banks were compelled to maintain banking connections and branches in that all-important center. Since the stirring events which ended with the signing of the Peace between the Allied and the Associated Powers on the one hand and the Teutonic Alliance on the other, New York came to the fore as the center of financial operations of international character. How the relative positions of London and New York will work out eventually, it is too early to say. But London has lost the undisputed supremacy and will henceforth divide honors with New York, if not yield them up entirely.

10. In certain countries, such as Russia, Germans had no banks or branches of their own, while their competitors had such branches. Nevertheless through a system of alliances and secret agreements they succeeded in dominating such domestic banks as existed in those countries to a considerable extent. In Russia, taking that country again for an example, it was positively

known even after the declaration of the War what Russian banks were under the dominating influence of this or that group of German bankers. In a way this illustrates the contention between those groups of banking interests in the United States which advocate and those which decry the establishment of branch banks abroad. Without branch banks it is necessary to secure communities of interest and working agreements with existing oversea banks, in order to be able to serve the interests of the exporting country. The establishment of branch banks abroad, though of great help under certain circumstances, is not the sole solution of the credit problem.

11. Even before the war voices were heard in Germany against undue extension of long-term credits at home and abroad. In times of financial stringency, such as prevailed in Germany during the Morocco controversy with France, the results of looseness in credit dealings were plainly observable. It was recognized that a certain element of peril was the inevitable concomitant of German liberality in the extension of credits. An enormous burden had been put upon the financial resources of Germany through the justly severe peace conditions imposed upon her. It seems unthinkable that she will in the near future enter the markets of the world with anywhere near the same ability to cater to the requirements of export markets for long term credits. The immediate result must be that all over the world a rigorous scrutiny will be applied to all demands for credit. Where credit of unusual length is an absolute necessity special instrumentalities will be formed to take care of it. That it will not be the province of the manufacturers of any country to concern themselves with that phase of the financial situation is clear. As far as United States as an exporting country is concerned, the creation of a new order of exporters—the so-called world merchants—with financial resources far beyond the dreams of the pioneer exporters, and with financial alliances insuring the success of their operations, seems to point to the solution of the problem. American banks, taking up the study of foreign markets from the point of view of the American manufacturer and from the point of view of investor, are likewise headed in that direction. Co-operation under the Webb law and under the proposed Edge bill may add the final link in the

chain of American efforts to meet a situation in international commerce in which suddenly a leading rôle has been thrust upon the United States.

12. Finally, returning to the credit problem as far as the manufacturer is concerned, we may contrast the English attitude to credit with the German. The English exporter in dubious cases was perfectly willing to lose an occasional order to the German export trade rather than engage in a ruinous competition by lowering credit standards. The English exporters felt credit to be the poorest sort of a selling argument, being most likely to appeal to the least desirable class of trade. German manufacturers, in their efforts to go around the exporter, frequently over-extended credits and met with disastrous experiences.

It was the export merchants of Germany, backed by banks and by their own wonderful organization, who were grantors of long term credits, but never to customers who were weak financially, never without close watch on the spot over developments, never without security such as return shipments of oversea produce.

In the perplexing complications which the credit problem must assume as the result of the—at least temporary—elimination of the German factor, of the accession of additional classes of credit seekers in the new commonwealths recently created and in the countries undergoing the painful tasks of reconstruction, and finally of the new alignment of creditor and debtor nations,—the American business world must bear certain viewpoints clearly before it. It can most benefit self and the world in supplying the needs of the world if it meets the problem before it strictly on the basis of the fullest co-operation and coordination of American resources. There must be a division of labor. The manufacturer must not seek to assume the burden of financing the world's need of manufactured goods. He will content himself by modestly accommodating those financially most solvent customers whose paper his bank will discount for him. Even in so doing he will remember that the actual financing is done by the bank. An inevitable elimination of many of the mushroom enterprises born of the World War upheaval, will be found necessary. The old-time export merchant will

find renewed and enlarged opportunities for his services. The banks and financial institutions by adopting a wise policy and by a close study of conditions in the various markets can do much to promote American trade. The new order of world merchants can do pioneer work in undertaking a broad-spirited campaign in all markets of the world. The Government, through the Federal Reserve System, through the United States Shipping Board and through the Department of Commerce can establish those bases of success which are necessary to support the efforts of manufacturers, banks and exporters.

B. The British Methods of Financing Foreign Shipments.

Before the war London was the undisputed center of international payments. The experience of the United States in 1914 illustrates this point very strikingly.

United States imported in 1914, among other commodities, hides and skins, rubber, coffee and wool to the amount of over four hundred million dollars. Practically all of such importations until 1914 were passed through London and paid for in the form of sterling credits, the drafts being drawn in sterling currency on London.

The cause of London's predominant position in the field of international financing is to be seen in the position of England as the chief commercial carrier all through the early stages of the development of European dealings with oversea countries, for which reason it became the center of international settlements.

The cataclysm of the world war worked a remarkable change in this condition. America became the predominant credit nation of the world. New York became the center of credits. We are as yet in the midst of the organic readjustments that must necessarily follow from so remarkable a shift in the equilibrium of the international financial mechanism. In proper place we will take up the consideration of the novel aspects of the credit problem—both in the narrow meaning of the term, as applied to individual dealings between an American manufacturer and his foreign customer, and in the broader meaning of the term, as relating to the general credit need abroad and to the position of America as a credit nation and the paramount holder of and investor in foreign securities. At this point we are merely concerned with the development of the British methods of financing foreign shipments as prevalent before the war and as affected by the reduced importance of London as the center of international financial transactions.

What was the effect of London's paramount importance in international settlements? The merchants overseas always preferred to make and to receive their payments on the basis of the sterling currency, until it assumed the character of an international medium of exchange. European exporters found it convenient to receive their payments in one currency rather than in the miscellaneous currencies of the different oversea markets. It was a convenience to have such a center; here the foreign importer could remit his payments and here also the European exporter could receive his money, and the miscellaneous buyers in foreign countries drawing their supplies from several European centers were content to concentrate their settlement in one place. London became not only a clearing house for international settlements but also a central place of deposit for bankers and merchants all over the world.

This created an immense revenue for England. The national wealth of that coutnry was enriched year after year by the tribute paid it in connection with international exchange transactions. On the other hand the English exporter had the advantage of dealing with foreign buyers in his own domestic currency, saving loss of exchange and other expenses. The concentration of foreign trade banks in London, with their vast accumulations of information regarding the foreign customers, was another important advantage. Other nations have emancipated themselves to a considerable degree from the English predominance in the ocean carrying trade, but the attempts to go around London as a center of financial intercourse with the export markets have been less successful. It requires a plentiful sprinkling of merchants of one nationality in foreign markets to achieve any success along these lines. This is the explanation of that limited measure of success which the Germans achieved in establishing a standing for their currency abroad and a modicum or direct financial intercourse. Yet the German exporters and importers immediately before the war still largely relied on London in their oversea settlements. And the English banks did their utmost to discourage the formation of foreign trade banks by other nations.

A detailed description of the German methods of financing foreign shipments through banks devoted to foreign trade has

been given. These methods were largely adapted from the English. England at the beginning of the World War was still the classic head of international banking and it developed the standard form of dealing with the financing of shipments to and from oversea markets.

The English banks engaged in foreign banking have carried out a most business-like division of foreign markets. This division of territory is based on the wide variations in commercial usages and conditions prevailing therein. East and West are sharply differentiated, and English dominions with a white commercial population are catered to by special banks. Within these three great divisions there is a further specialization by countries. Almost all of these banks have headquarters in London.

The English foreign trade banks maintain branches, agencies, and correspondents (the latter generally import and export houses with banking facilities) throughout the sphere of their activity. The last-named class of concerns is mostly found in small Central and South American cities, where the cost of establishing special branches and agencies would not be commensurate with the business expected. Some of these correspondents are in independent intercourse with banks outside of England. Many of the banks catering to foreign trade have agencies in other exporting countries doing business with their particular field; for instance, the London & Brazilian Bank has agencies in New York, Paris, Lisbon, and elsewhere.

The English export merchants are in touch with special banks for each of their export territories. An export merchant doing business with South Africa, Australia, and China will often be in connection with a separate bank for each of these markets. Non-English merchants of prominent financial standing are in a position to use these banks for the financing of their business, but smaller firms can utilize their services only for the collection of drafts or for business with full security, while for other accommodations in connection with exports they must rely on their own domestic banks, who, in their turn, may fall back on the English banks.

The bulk of payments through London foreign banks is on the basis of documentary bills or drafts. These are drafts ac-

companied by bills of lading (full sets), invoice copy, and insurance certificates.

In case of shipments from oversea places to London it is customary to send single bills of lading attached to first, second, and third of exchange and to mail them by various steamers, the bank oversea certifying that it had received a full set and attached same to various copies of drafts. This certificate reads something like this: "All negotiable vias of the bill of lading relating to this bill have been received by the London & Brazilian Bank, Rio de Janeiro, and will be forwarded to the London & Brazilian Bank, London, by following mails." The bills of lading are generally drawn in blank, or sometimes to the order of the bank, and only seldom direct to the name of the consignee. The latter is the case when the consignee is of the highest financial standing and enjoys special credit with the bank. In shipments from oversea the original insurance policy is attached, unless covered by "floating" policies, in outward shipments generally a certificate by the insurer. This document is also drawn in blank or to the name of the holder.

In distinction from these "documentary" bills forming the bulk of drafts handled by English banks, there are also so-called "clean bills," unaccompanied by such documents.

The drafts, as explained in a previous chapter, are drawn either against payment (d/p) or against acceptance (d/a). In the case of "documents against payment" it frequently happens that the drawee pays before the draft is due; for instance, if he has already resold the goods and needs the documents; in this case he receives an interest allowance, generally 1 per cent below the bank interest rate. Only partial advances are made in England to drawers on d/a drafts, nor are these readily granted. They are more readily taken as collateral in loans on current accounts (overdrafts) or fully discounted.

The drafts are generally drawn at 60, 90, 120, and sometimes 180 days. In dealings with the Far East, drafts with an interest clause predominate. The drawee has to pay in addition to the face value of the draft a certain interest until the approximate day of the receipt of return funds in Europe. The drafts read: "With interest at — per cent per annum added thereto from date hereof to approximate due date of arrival of

the funds in London." Such interest-bearing drafts are almost invariably made out in pounds sterling.

In dealings with Asia some drafts are made out in the local currency of the drawee. On Central and South America it is, on the other hand, customary to draw in pounds sterling and, less frequently, francs or dollars. Drafts drawn overseas on London are almost always in pounds sterling. Where they are thus drawn, the drawee can pay in his home currency at the collecting bank's current rate of exchange on either sight or 60 and 90 days' drafts on London. The drafts are made to read: "Payable at the current drawing rate for the (say) Anglo-South American Bank's draft at demand (or 60 days' sight) on London."

In the payment of invoices the drafts drawn by the seller are drawn either on the buyer or on some English bank. In the export trade drafts on the buyer predominate, in the import trade drafts on the bank. In the case of consignments for export drafts are drawn on the consignee, and sometimes on the local branch of a London bank; in the case of consignments for import, drafts are drawn either on a London bank or also on some large import house.

Remittances bought at the buyer's home to pay for purchases from London are not customary excepting in places where business is done on open account. The importer can procure these either in the market from exporters having claims on London (documentary bills), which is sometimes done in Central and South America, or he buys from the bank drafts drawn on London, which is sometimes done in the Asiatic trade. These drafts are called bank bills or credits, because they are drawn for credit purposes by one bank on another. For payments in London and other places in Europe oversea banks sell so-called T. T.'s (telegraphic or, more correctly, cable transfers of money).

To repeat, the major part of the business of the English banks in oversea settlements is to take up documentary drafts, either for collection or for payment and advances thereon, or for acceptance on commission basis. Occasionally the buyer overseas has a credit with the bank in London and authorizes the latter to pay invoices out of same. This very best of all methods of financing shipments, however, is comparatively seldom used.

Mere collecting of drafts is only a minor activity of the London banks. The exporter seeks to get cash for his drafts as quickly as possible and will not often wait for maturity. It is mostly in business with Central and South America that drafts are turned over to the banks for collection. Most London banks have special rules and regulations for the collection of drafts. They always exclude liability for losses in connection with same. They decline responsibiliity for documents handled by them, for merchandise which they may be called upon in the course of events to take over, for the solvency or remittances of their agents or correspondents, etc. But they generally undertake to use all care and diligence in the interest of their clients.

The regulations insist on the client giving clear instructions as to what is to be done with the draft in the case of non-acceptance or non-payment, regarding the disposal of the merchandise in the same event, as well as with regard to discount for payment ahead of maturity. Instructions are also frequently asked, as well as suggestions made, with regard to including in the draft a clause referring to the rate of exchange in the event of payment. For each draft the London banks have special code words permitting instant cable advices at nominal cost. The draft regulations also cover the points of collection, commissions, and charges.

The commission differs from point to point, but for places where the banks maintain their own branches, it is generally one-half of 1 per cent. For other places the commission is a little higher, in order to include the correspondent's charges, or the latter are sometimes separately provided for. For small drafts there is generally set down a minimum amount of commission, differing in accordance with locality, from 2s. 6d. to 10s., generally figuring about 5s. When the drafts are not honored some banks reduce their commission, while others charge it whether the draft is honored or not. Postage and other expenses are figured separately. In some places there is a local exchange, which reduces the amount realized in the interior points of an oversea market when remitted to one of the principal points.

On the whole, it may be said that in English usage the customer has to assume the cost of collecting the drafts and forwarding the proceeds to the seller. For this reason the drafts

either include these expenses in their face value or bear the clause "charges for collection to be added," or on South Africa and Australia "remitting exchange to be collected."

The principal sphere of activity of these English banks for foreign trade, as already stated, lies not in the mere collection of these drafts, but in the financing of export and import shipments. But it is said that it is the business of the export merchants to finance these shipments. Indeed, the financing of exports and imports is considered a more important function of the commission merchants than their mediation in securing business. While this is true, without the aid of the banks the export and import merchants would find their capital far too inadequate for such financing. They undertake to finance foreign trade only partly with their own capital, but very largely with the aid of the credit which they enjoy with the banks because of their capital and the business transacted by them. Few of their clients would enjoy the financial assistance of these same banks to a similar extent.

In the financing of foreign business through the London banks export and import trade are subject to entirely distinct treatment, and for the purpose of the present report we are interested primarily in the export end of their activity.

One of the means of financing foreign shipments is by advances on drafts. These advances are charged for generally on the basis of 6 per cent, while the ordinary London bank rate, of course, is much lower. When such a draft sent in for collection and debited with a partial advance is finally paid, the exporter receives the balance between the interest-bearing advance and the net proceeds of the draft, commission, postage, etc., having been deducted. These bills "sent for collection and advanced against" are thus different from "bills sent for collection only," and a lower rate of commission is granted on the latter. In the first case, because of the high rate of interest charged, the commission and postage charges are omitted, but where the advance was made at the ordinary low interest rate (distinct from the 6 per cent oversea rate), commission and other charges are added, the same as on "bills for collection only." This partial advancing of money by London banks on drafts sent for collection is frequent in the South American business.

Here we must differentiate between pound sterling drafts bearing interest and those that do not bear interest. In the former case interest is provided for until the approximate day of receipt of return funds in London, and the bank advancing money on the draft receives its interest charges from the drawee. When the proceeds are received in England there is a final accounting with the drawer. Sometimes practically the full amount of the draft is advanced, and in the end there may be again a final accounting, showing a small balance in favor of or against the drawer.

Pound sterling drafts on oversea markets without interest clause are discounted by the bank. The discount rate may be based on the higher interest for oversea trade (generally 6 per cent), in which case no commission, postage, or other expense is charged. The drafts may be on English colonies where the sterling currency prevails or on other countries where the draft is paid in some local currency which must be first converted into English money at the bank's buying rate.

While at first sight it would seem that the pound sterling is the same in South Africa and Australia as it is in England there is nevertheless an "exchange" factor determining the value of remittances at a certain period after sight on certain points. The The English banks quote varying buying rates for sight, 30 days', 60 days', 90 days' sight, etc., for South Africa, Australia, etc.

We have seen that the English usage permits the seller to charge the buyer with the costs of collecting the remittance. All the costs of the drafts are usually added to the invoice and included in the face value of the draft, so that when the exchange is deducted the net due amount remains. If this is not done the exporter includes in the draft the clause "exchange to be added" or "with exchange for negotiating bills on the colonies at current rate and stamp duties."

In the case of pound sterling drafts on countries where the local currency is different there is another element. Beyond the control of the drawer drawing rates on remittances from the oversea point on London may change from day to day. The seller draws for 1,000 pounds sterling on a customer in Chile. The customer may not like the day's rate of exchange on sterling, as he must turn in Chilean pesos and have the amount converted

into sterling. This is provided for by a clause "payable at ——— drawing rate on day of payment."

When the Standard Bank of South Africa announces that its buying rate for Cape Town is one-half of 1 per cent for sight bills, 1 per cent for 30 days' sight, 1⅝ per cent for 60 days' sight, 2¼ per cent for 90 days' sight, and 2⅞ per cent for 120 days' sight, each 30 days' maturity difference is based on one-half to five-eights of 1 per cent, or 6 to 7½ per cent per annum.

The Anglo-South American Bank may on a given day quote the following buying rates for South America:

East coast, 2 per cent sight, 2½ per cent 30 days' sight, 3 per cent 60 days' sight, 3½ per cent 90 days' sight.

West coast, 2½ per cent sight, 3 per cent 30 days' sight, 3½ per cent 60 days' sight, 4 per cent 90 days' sight.

It will be seen that here each 30 days corresponds to one-half of 1 per cent, or 6 per cent per annum, and that there is a difference of one-half of 1 per cent between east and west coasts buying rates, based on additional distance. Four per cent on a 90 days' bill on the west coast, figured at 6 per cent per annum, would show that the bank expects to be out its money 8 months —1 month for the draft to reach its destination, 90 days' sight, 1 month for return remittance, and another 90 days' sight on same.

In the case of drafts drawn in other currencies than pounds sterling on Asiatic places, the banks publish special buying rates based on exchange quotations. Good customers, however, are in a position to procure better rates than those generally quoted. This is done in connection with bills for very important amounts.

In addition to advances, partial or total, on drafts, and even to the outright purchase of drafts, English banks give advances on consignments, drawing on the consignee for either the full value or part of the value of the invoice. The security of the bank is in the draft and in the goods. The draft bears the signature of the drawer, which is one part of the security; the other part lies in the goods until the latter are turned over to the consignee. If the goods are to be turned over little by little against partial payments, the bank has a valuable security in its hands. If the goods are to be turned over against acceptance

of a draft, the bank provides for a lien on the goods, not regarding the additional signature a sufficient security for losing control of the shipment. The consignee obliges himself to consider the goods and the proceeds as mortgaged to the bank. The consignee must always hold either the documents or the goods themselves at the disposal of the bank and remit proceeds for the sale as the goods are being sold. They are booked separately and the proceeds are handled entirely apart from other funds of the consignee.

The sender acknowledges the bank's mortgage rights in a so-called letter of hypothecation. This reads in part as follows:

"The above shipment, the goods and the proceeds thereof are to be treated as specially hypothecated to you by way of collateral security." Or, "the said goods in the meantime, and their proceeds, or any part theerof, to be held by ——— in trust, on your behalf, for payment of the said sum." The bank can instruct the consignee regarding fire insurance, sale, etc. The recipient of the advance also specially binds himself to guard the bank against any loss in connection with failure to sell, etc.

The consignee signs a letter of lien or a letter of trust. This reads: "We hereby engage to receive and hold the said goods in trust in your behalf, to have them duly stored, insured against fire, and to remit to you the proceeds as and when sold."

It is frequenly the custom for shippers of many shipments to various consignees to turn over to their bankers a general letter of hypothecation for advances against their shipments. It is only in the rarest instances that other shipments than consignments are handled in this manner, for only a very weak customer will sign a letter of lien on an out-and-out purchase. But in consignments the consignor not only has the benefit of an advance on the shipment, but also the advantage of a careful control on the spot by the bank.

In the case of financially weak exporters sending goods to buyers whose standing is well known to the bank, the bank frequently awaits cable notice of acceptance of the draft before making an advance. It might be said that the bank is secured by the shipping documents, but when it is considered that the bank has no means of knowing the contents of the shipment or whether they correspond to the invoice, the security can not be

regarded as ample. In all of the other cases already discussed, we have assumed that the standing of the seller is satisfactory to the bank. The standing of the customer is a minor consideration. In the case of really first-class shippers the banks will make the required advances even without hypothecation.

Occasionally the shipper will give his bank a general power of attorney authorizing the bank to act in any eventuality, guaranteeing it against loss through non-acceptance or insolvency of the debtor before maturity and all expenses, and agreeing to a recourse under any conditions, relieving the bank from all responsibility or loss in connection with forced sales, etc. Then the bank undertakes to advance money against such shipments right along without special agreements from case to case.

Another method of financing foreign shipments is by letters of credit. The customer overseas may enjoy a certain credit with the bank overseas. Either his standing or his letter of trust or his actual deposits in the bank may induce the latter to instruct the bank in London to honor drafts on its client in connection with orders sent to certain parties. This letter of credit may be limited to a certain maximum sum. The bank reserves also the right to cancel its promise before shipment, but the drawer of the draft is always bound by his signature. The bank acts only as buyer of the draft. While this class of letters of credit is not equivalent to actual cash payment, inasmuch as the seller is not relived of recourse, it is much valued, first, because the exporter is not using his own credit with the banks; second, because such an authority to draw is an indication of the solvency of the customer. This class of letters of credit is really an authority to draw on the cutsomer, coupled with a promise by the bank to honor such drafts, though, with recourse, and is based on the standing of the oversea buyer.

Another important method of financing foreign shipments by banks is when they permit the shipper to draw on them, promising to accept the draft. Here payment is not mode immediately, but the bank must be secured before payment is made—that is, before the accepted draft matures. This is of value to the exporter because an acceptance by a first-class English bank can always be changed into cash in the market, and also becaues instead of a partial advance the exporter has the entire sum due

him at his disposal. The bank is not out any money, and it provides for being fully covered before maturity.

How is the bank covered? Here the bank acts as an agent for the buyer. Its risk is much greater than where it acts as an agent of the seller and has his signature and the documents as security. Such transactions, as stated, are entirely on the basis of the credit standing of the customer. The accepting bank takes control of the goods, turns them over against a letter of trust or promissory note, or stores the goods at destination, turning them over against warrants to the buyer.

When the bank authorizes the seller to draw and promises to honor the draft, we have an instance of a confirmed letter of credit. Here the bank, as a rule, can not cancel such an authorization. The bank binds itself to accept drafts to a certain stipulated amount, and this confirmed letter of credit contains the clause: "We hereby agree with you and also with the indorsers of bona fide holders of bills drawn in conformity with the terms of this authority that the same shall be accepted on presentation and be paid at maturity."

Different from financing by bank acceptance, the bank acting as the agent of the buyer, is the financing by acceptance of the bank acting as the agent of the seller. The last-named method is mostly used in consignment business. The bank finances the transactions by lending its acceptance; it receives the shipping documents and a letter of hypothecation; the buyer receives the documents against the letter of lien, and promises to pay the bank direct in first-class bank bills or by a cable transfer. If the funds are not received before maturity the consignor is obliged to cover the bank in cash, but may draw again and again, paying an extra commission of about one-half of 1 per cent every three months. The business is still financed by the bank through these renewals. This is customary, for instance, in business with China.

In addition to financing business transactions between Europe and oversea markets, the English banks mediate between different overesa territories. An Australian buying from a house in Hongkong may give the latter a 90 days' sight credit in London as payment. The Australian is in business connection with

the London bank, has credit with it, while the Hongkong merchant can use a London credit to the best advantage, as there is always a good market for London bills in Hongkong.

The service of the English banks in the financing of foreign shipments, as outlined in the foregoing pages, is, on the one hand, more conservative than that of the German banks for which the English system has served as a model, and, on the other hand, more thorough-going in assisting exporters of assured financial standing. There is not in the English system that extensive ramification of long-term industrial credit, partly due to the peculiarly intimate connection between banks and industrial enterprises which is characteristic of Germany. But the English banks for foreign trade have subdivided the export field in such businesslike fashion, honeycombing each section with branches, agencies, and correspondents, and, through the undisputed position which London still maintains as the center of the financial transactions in international business, are so well placed to serve their clients that the English export trade can not help but derive the utmost advantage therefrom.

The English export merchants have been longer in the field than many of their competitors. The best among them maintain organizations in foreign markets which are unapproached by rivals of any other nationality. The reliability of the English export merchants of the better class is a byword in oversea countries.

The British manufacturers, similar to the German, show a tendency to eliminate the export merchant in their dealings with foreign customers, but the export merchant is securely intrenched in many markets, in which his services are more appreciated by the customer than a possible saving through dealing direct with the manufacturer.

With regard to credit accommodations to foreign customers, the export merchants of Great Britain and the British oversea banks meet the demand adequately, but the tendency is to keep down the length of credit terms. Where foreign competition seeks to gain trade by offering longer credits, other things being equal, the British export merchant and manufacturer is apt to let the trade go rather than encourage a policy recognized in England as harmful.

Generally speaking, the British manufacturer who exports direct seeks to get his money as quickly as possible. By utilizing the excellent service of credit information through the London banks, he is willing enough to make use of the various methods of furnishing reasonable credit accommodation to foreign customers described in the foregoing paragraphs, but the credit terms are generally shorter than those granted by the Germans.

A review of British export and banking conditions would be incomplete without a renewed reference to the important position of the Bank of England in dictating the rate of discount. Monetary conditions throughout the entire world are affected by it. As far as the financing of exports from England is concerned, the authoritative character of the Bank of England rate has a most far-reaching effect upon stabilizing the money market and the conditions relating to the discount of commercial paper in general.

Margraff (International Exchange) aptly summarizes the effects of the discount rate of the Bank of England, as follows:

1. It establishes the minimum rate at which the Bank of Engaland will discount acceptable paper.

2. It fixes the rate of interest allowed by London joint-stock companies on short deposits, since this rate is 1½ per cent under the Bank of England rate.

3. It determines the rate of interest allowed by London bankers on cash balances to the credit of foreign correspondents, keeping active accounts with them, inasmuch as this rate is usually one-half to 1 per cent below the Bank rate.

4. It serves also to fix the rate of interest charged on cash overdrafts, on running accounts, as debt balances are generally subject to the Bank rate, or one-half to 1 per cent above, according to agreement.

5. It establishes the open-market discount rate in Great Britain, at which private bankers, London joint-stock companies, and discount houses will discount paper for local or foreign account, the rate ordinarily being from one-fourth to one-half of 1 per cent below the Bank rate.

6. It governs also the "retirement rate of discount," on documentary payment bills, which is the rate of interest rebated to the drawee, or acceptor, for prepayment.

7. It affects the value of all international bills of exchange, as an advance in the Bank rate either advances the rate of exchange for a demand sterling draft in a foreign country or depreciates the worth of a long-term sterling bill, as the interest rate for credit balances and the discount rate for long-time paper are dependent upon the Bank rate.

8. It has the power of protecting the gold reserve held by the Bank of England and of checking any protracted movements of gold importations by foreign nations, inasmuch as an advance in the Bank rate adjusts the rates of foreign exchange to a point where such operations become unprofitable.

9. It attracts the deposits of foreign banks with London correspondents, as an advance in the Bank rate to a point in excess of the earning capacity at home induces Continental money lenders to seek the London market for the investment of their funds.

CHAPTER XV.

C. The Foreign Credit Problem in America Before the Enactment of the Federal Reserve Act.

1. *The American Exporter and the Problem of Foreign Credits before 1914.*

In considering the pre-war attitude of the American manufacturer to the subject of financing foreign shipments and to export credits, I prepared the following summary in my monograph on "Foreign Credits" (*"Foreign Credits,"* Special Agents Series 62, Department of Commerce, Washington, 1913):

American manufacturers have been persistently criticized for indifference to the need of credit on the part of their foreign customers, and their alleged lack of liberality contrasted with the more accommodating attitude of their British and German competitors.

A careful inquiry both in Germany and in the United Kingdom failed to reveal that the manufacturers of these nations are more willing or better prepared to grant long terms of credit to oversea customers than American manufacturers. The export trade was in the hands of export merchants having establishments of their own in their particular spheres of activity overseas. The business of these export merchants was largely financed by banks specially catering to this trade, and the need of buyers in those markets for credit accommodation (which need is, indeed, a real one) was met by the co-operation of banks at home and overseas with the exporter and the buyer. A tendency to enter into direct business relations with foreign customers was, to be sure, apparent both in Germany and in Great Britain, and manufacturers' associations in both countries did their utmost to foster direct business, but in the bulk of the export trade done by both countries direct trade by manufacturers, and particularly on a credit basis, was almost a negligible quantity, being confined, as far as the Germans were concerned, to sporadic efforts with

the more stable sections of the export field, and as far as England was concerned, principally to the English colonies

In the case of these direct dealings with the export markets neither German nor British manufacturers were in a better position than the Americans to carry on their books a number of foreign credit risks for lengthy periods. The manufacturer can not tie up his capital in such transactions. He must have cash within a reasonable period of time after he ships the goods or he can not keep on manufacturing.

Of course where the German or the British manufacturer found it necessary to extend long credit, both had at their disposal the same remarkably adequate machinery for financing foreign shipments as the export merchants, only that the exporter's transactions with any one bank specializing in the trade with a certain section of the export field are bound to be far more important in volume than those of an individual manufacturer, and the merchant is better able to cater to foreign demand for credit.

On the whole the German manufacturer in shipping goods abroad direct, and to a much greater degree even the British manufacturer doing a similar business, refused to grant long credits to foreign customers indiscriminately. Any reader of British consular reports will find that the British manufacturers are blamed as faithfully and regularly as the American manufacturers in the matter of restricted credit accommodation to foreign customers. German manufacturers shortly before the war met with severe losses in attempting to do a direct business in the Far East, particularly in Japan and China, and in other export markets, and regarded the subject of foreign credits in a spirit of chastened reluctance. The entire system of long-term credits was severely condemned. Prominent financiers cautioned the trade against it, and the tendency to restrict credits as far as possible was distinctly noticeable.

The attitude of the same manufacturers was quite different when we take up for consideration (as distinct from the so-called "oversea" markets) the dealings of German and British manufacturers with other European countries. Here the manufacturers are within easy access to their customers. The German manufacturer could do business with his customer in Austria, Italy,

France, Russia, and other European countries very much as the American manufacturer in Canada. In the report of the British Commercial Mission to Canada we read literally the following: "Then there is the matter of terms of credit. American firms are said in particular to be much more elastic than their British competitors in regard to the requirements of their customers, and do all in their power to facilitate matters for them." Here we find American manufacturers held up as a pattern, and the British manufacturers censured. What does this really mean? Nothing more than that when American manufacturers find it reasonably safe to extend rational credit they are not averse to doing it, as long as it is compatible with business methods.

American manufacturers have been blamed for adhering stubbornly to the principle of "cash against documents in New York" in their business dealings with foreign customers. The report on "Foreign Credits" analyzes the replies of American manufacturers to a question blank prepared by the compiler, from which it will be seen that very many American manufacturers do not hesitate to sell abroad on credit. It will be observed that the most successful manufacturers have long ago adapted themselves to the needs of the markets cultivated by them, whether it be in the matter of styles, or of packing, or of credit. The credit problem has been satisfactorily solved by those manufacturers who have studied the subject practically and without prejudice, and with the knowledge of proper limits.

In describing the German methods of financing foreign shipments, it was carefully explained why the customer overseas needs credit; we have also referred to the difficulty of the manufacturer in meeting this need, which is always a greater difficulty when dealing with out-of-the-way markets, and a much simpler matter when dealing with adjacent territories, though they be under a foreign flag. We have described the place of the export merchant in the economy of German and British export, and have also discussed the part of the banks in Germany and England in the financing of the export trade.

The esssential principles underlying the need of credit are the same when the dealings of American manufacturers with

their foreign customers are concerned and need not be here repeated. However, at this point the various shades of attitude shown by American manufacturers to the subject of foreign credit may be taken up. We have already mentioned one policy which many critics of American methods claim to be essentially and characteristically American: "Cash against documents in New York." This attitude, however, is by no means irrational at a certain stage of a manufacturer's experience in the export trade. The manufacturer does not know his customer, he parts with his goods, and he refuses to do so until he is paid the entire value of the shipment. He does not know the conditions in the export market. He is afraid that he may have trouble in collecting the money due him if he were to let the goods pass from his control without payment. To be sure, he sends his goods on credit to customers at home, but he has a better grip on the situation. He knows his rights in his own country, he is familiar with the remedies in case of non-fulfillment of contract, he can keep track of the changing financial condition of his customer. He is closer to his customer in distance and morally. He speaks the same language. He can send an employee to see his customer at a moment's notice and at small expense. The manufacturer demands "cash against documents in New York" in order to avoid the risk of doing a credit business with customers located where recovery, in the event of non-payment or other difficulties, is a troublesome matter. To this extent the manufacturer shows prudence.

If this attitude is assumed from reasons of rational prudence, it is subject to revision on the part of the manufacturer to such extent as it may be shown him where and how it may be revised with reasonable safety. The American manufacturer has learned, for instance, the lesson that credit risks in Canada are not essentially different from those in his own country.

It is only when a manufacturer stubbornly refuses even to study ways and means to carry on his business with his foreign customer on a basis of reasonable credit accommodations that the "cash against documents in New York" policy may be referred to as unreasonable. But even in this case it may be due to the realization that he can not act as a banker to a number of foreign risks, carrying them on his books for varying periods

of time. In other words, he may admit the customer to be deserving of credit, but is unable to accommodate him.

Even such manufacturers may reconsider their policy on the subject of foreign credits, if it may be shown them how they can meet the need of their foreign customers for credit without at the same time tying up their capital in outstanding accounts. We will refer to this when taking up the functions of those banks in the United States which cater to foreign business.

American manufacturers interested in the export trade may be roughly divided into the following groups: Manufacturers with a foreign sales organization and manufacturers without a foreign sales organization. Another division may be made into manufacturers selling direct from their home office or from their New York office, and manufacturers maintaining resident branches or agents abroad. Still another division is manufacfacturers selling direct and manufacturers selling through commission merchants. Where sales are made through commission merchants all risk is, indeed, eliminated so far as the manufacturer is concerned, as he is paid before the goods are shipped abroad, or it is converted into a domestic risk, if the commission merchant himself is a recipient of credit accommodations from the manufacturer.

Manufacturers having no foreign sales organization are without means of developing a foreign credit policy based upon a systematic study of foreign markets in relation to the introduction of their goods on terms accorded by their foreign and domestic competitors. For them a foreign order must be generally converted into a domestic order by passing through a commission house in New York or elsewhere or by the requirement of "cash against documents in New York." It is really this class of American manufacturers who may be interested in the export trade to the extent of placing an advertisement in one or more export papers, or whose goods may have come before the notice of a foreign inquirer without solicitation, who are the principal adherents to the "cash against documents" policy. Not possessing a foreign sales organization, it would be unwise for them to grant credit abroad, because they do not know how to do it. Indeed, some manufacturers so situated may be doing a credit business without knowing it, when they sell by time drafts

against documents and negotiate these drafts at once with an American bank. As has already been pointed out, the recourse element of these transactions stamps them emphatically with every feature of a credit risk.

Manufacturers having a foreign sales organization in the course of time are bound to adopt a policy with regard to foreign credits. This policy depends on five elements: The goods, the manner of marketing the goods, the markets, the customers, and the manufacturers themselves.

With regard to the goods, where these are special articles in which the manufacturer fears no competition, he is in the happy position of being able to dictate his own terms. There are goods which nobody else makes or nobody else makes as well; the foreigners must have them, and they will have them on any terms. Such lines partaking of a character of a monopoly are not numerous. Again, there are lines which by the usage of the trade are considered "cash lines," not only in the United States but also abroad. In other lines the manufacturer asks himself the question: "Are my goods so superior to those of my competitors that my foreign customers will buy largely of them, even if my terms of credit are more stringent than thoes of my competitors?" The answer will dictate his policy.

The next element is that of locality. Here the manufacturer must ask himself the questions: "What are the local needs dictating the demand for credit in this particular market? What are the shortest possible terms on which I can market my goods there safely and on a sufficient scale?" Here again the competitors' terms must be considered, as well as the local bank rates for credit accommodation, the manner in which the customers themselves (if they buy to sell to others) dispose of their goods, and such local conditions as the standard of business morality, etc.

The manner of marketing is next in importance. The manufacturer may sell wholly or partly through American commission houses. To that extent his business is practically a domestic one. He may sell through branches located abroad, and here again the credit is domestic, as far as the branch is concerned. He may sell through foreign resident agents or he may sell direct

Closely akin to this is the important feature of the class of customers to which the goods are sold. The customers may be wholesale importers, small dealers, or even consumers. The first are generally good risks, the second may or may not be to a certain limit, and the third may be found anywhere in the range of financial responsibility, from a small planter to a government enterprise of absolutely unquestionable character. The standing of the customer must be the deciding element in the transactions.

There are also variations according to races and nationalities. In certain sections of West Africa, for instance, only European houses are desirable customers. In India there is a vast difference between business methods of Parsees, Hindus, and Europeans, and trading with each class is conducted differently.

Finally, the manufacturer himself is to be considered. Is the manufacturer one to formulate a procrustean credit policy and force all customers to adapt themselves to it, or will he shape his policy to suit the needs of his customers, as far as he can with due regard to his own exigencies?

2. *Credit Information.*

One of the principal functions of a foreign sales organization, next to selling the goods, is to provide for the collection of the proceeds of sales. Where credit is granted, at home or abroad, the basis for credit lies in the knowledge of the customer's financial standing.

At home the task of passing upon the worthiness of a customer to obtain credit accommodations devolves upon the credit man. This official has an intimate knowledge of the means of obtaining credit information on the standing of customers through the various sources at his disposal, consisting of the reports of mercantile agencies (general and appertaining to the different industries), his own ledger experience with the proposed risk, interchange of this experience with other houses supplying the same customer, mostly in non-competing lines (though of late years the wisdom of houses in the same line interchanging credit experience has become more and more patent to credit

men throughout the country), advices from banks, information furnished by traveling salesmen, and the thousand and one avenues of keeping tab on the customer open to a wide-awake credit man.

Perhaps in no other country is the system of furnishing credit information on the standing of domestic customers so universal as in the United States, and certainly nowhere does the customer more readily furnish to mercantile agencies statements of his own financial condition as in the United States. To refuse to furnish a statement to a recognized mercantile agency is a serious matter for any business man. It arouses instant suspicion, and no trader can assume such an attitude unless he is willing to restrict his credit requirements to a narrow range of houses to which he may be known personally.

The credit man also well realizes the fact that he can generally get into immediate touch with the customer; he can readily verify any excuse offered by a customer asking for an extension of time, or he can take precautionary measures when overbuying is reported to him, and he can adjust credit to the risk's ability to pay, to his relative promptness in payments, and to any variations in the customer's standing as reported to him by the agencies. Finally, if the customer fails to live up to his contracts, he can make use of the machinery of law for recovery, and he is intimately acquainted with all the workings of the same. Even so, bad accounts are constantly encountered, and losses through fraud, bankruptcy, and other causes are by no means uncommon. The credit man can guard himself against these as well, for there are companies which will indemnify against loss by bad accounts, for a nominal sum, providing credit has been extended with the observance of certain specific precautions.

When dealing with foreign risks the domestic credit man is generally at sea. Unless he has made a special study of foreign credit conditions in the various foreign markets, he deals with unknown quantities. He may not know how to obtain dependable credit information on the standing of foreign customers; he may be unfamiliar with the means of safeguarding foreign accounts; he may be unaware of the methods of keeping in touch with the fluctuations in his customer's financial

standing; he may be at a loss when confronted with the necessity of collecting abroad. In short, all those elements of expert knowledge and ripe experience which constitute his own value as a domestic credit man are lacking when he comes to deal with foreign credits. And conditions in almost every export market are so different from those at home that the domestic credit man, if he is to pass efficiently on foreign credits, must acquire this lacking knowledge and experience, or employ a trained credit man for foreign work, or, as frequently happens, turn over the task to the export manager, who is naturally, in the first instance, a sales manager and not a credit man.

What are the means by which the credit man can ascertain whether a shipment to a foreign customer should or should not be made. For after all that is the problem before the credit man in each concrete instance. He can turn for information to one of the mercantile agencies, or to an association maintaining a credit information department, or to an American bank with branches abroad or with foreign connection or to a foreign bank, either having a branch in the United States or not. Finally the Foreign Credit Interchange Bureau of the National Association of Credit Men, recently organized, is a step in the right direction, giving an opportunity to members to exchange ledger experience.

Of the mercantile agencies in this field the premier is that of R. G. Dun & Co., which was established in 1857 and maintains now 68 foreign offices. Its organization is thoroughly excellent and it furnishes an efficient service in every way. The company has a vast accumulation of credit reports on file and has facilities for prompt information in all parts of the world.

The Bradstreet Company was next in the field and on a smaller scale parallels the works of the mercantile agency referred to above. It has offices in a number of foreign countries.

These organizations furnish credit reports as a business proposition, on the basis of a graduated charge in accordance with the number of reports desired.

The National Association of Manufacturers and the Philadelphia Commercial Museum likewise maintain well equipped credit information departments and their credit reports are furnished by correspondents throughout the world and are carefully

checked. In addition to correspondents in all principal centers who supply the basic information, they also make inquiries both at home and abroad, and on the main their reports, though somewhat varying in quality in accordance with the difficulty of securing reliable information in out of the way countries, where the credit report is even more of guesswork than it naturally is even in commercially advanced countries, manage to convey to the credit man as accurate a reflection of the credit standing of a foreign customer as it is humanly possible to obtain through investigation. This system is slightly more elastic than that used by mercantile agencies maintaining their own branches, and in his desire to get all the information possible the credit man will consult all of these sources.

Since legislation made it possible for banks to maintain branches in foreign countries, the National City Bank has opened a large number of such branch establishments and a great deal of attention is paid by it to the accumulation of credit information on the standing of concerns either buying or likely to buy American products within the sphere of activity of each branch. Banks maintaining no branches but having foreign correspondents, such as the Irving National Bank, National Bank of Commerce and other institutions have also devoted particular attention to the matter of building up efficient credit report bureaus.

While the services of the mercantile agencies are open to all who pay the fees, the associations provide such services chiefly to members and the banks naturally to their clients. The reports of the banks are, as a rule, much shorter and devoid of miscellaneous information, but briefly state the capital and the financial standing, the degree of trustworthiness and the approximate limit of credit to which the risk is entitled. The credit man can never have too much information and will do well to seek it through his banking connections in addition to the other channels. As a matter of courtesy many foreign banks will supply some credit information, particularly on the standing of those concerns with which they have dealings. The credit man will do well not to rely too much on this source of information, unless he is a client of the bank in question: foreign banks furnish such information as a matter of courtesy, and a non-client

cannot impose too much on courtesy; their views are based on personal experience, which may be interesting as an added element of information, but does not in all cases embrace all that is worthy of knowledge.

Among the foreign sources for obtaining credit reports on the standing of customers, there are banks located in the territory where the proposed risk is in business, foreign manufacturers doing business with same, and finally references given by the risk. With regard to the banks, these will generally give some brief information regarding customers whom they know. For this they make either no charge, or a nominal charge, or charge for postage only. Government banks are prohibited from giving credit information. In fact, such credit information should not be asked except of banks located in minor points. As a matter of courtesy correspondence should be in the language of the bank addressed, willingness should be expressed to pay the bank's charge, and return postage (international reply coupon) inclosed. Foreign manufacturers selling to the proposed risk should only be consulted if they represent entirely non-competing lines. Remarks regarding correspondence with banks apply in this case also. It would be unwise to correspond regarding credit with competing manufacturers abroad, for although very likely a courteus and accurate reply would be received, such a course might be the reverse of politic.

Where references given by the customer are communicated with, the fact that this is done at the latter's suggestion should always be mentioned in the inquiry. If the references are foreign, remarks regarding correspondence and postage made above should be carefully borne in mind.

With regard to the use of any of the sources of information available to American manufacturers, the careful credit man in charge of foreign credits will find it useful to be a regular subscriber to one or more of the agencies mentioned. This point will be referred to again a little further when we consider the relative value of foreign credit reports. It will sometimes happen that the credit man requires his information at once. If one agency has no information on file, another might. If no agency has the information, a bank dealing with the particular export market might have it. The banks naturally do not make

investigations beyond those necessary for their own dealings with their clients, and their experience is generally limited to such dealings. Of course where the urgency of the case warrants the inquirer in so doing, he may authorize any agency or credit bureau or bank to telegraph or cable for the information desired. Such cable reports naturally are very brief. They are followed in due course by a fuller report thorugh the mails. The agency may also cable for the information to be sent by mail, or may write fully stating the particulars of the proposed transaction and offering code words to cover any emergency in reply, and the report will reach the agency by cable. Cabling charges, and sometimes a little extra fee, are debited in such cases to the inquirer.

On the subject of the value and the meaning of a credit report there is a great deal of misconception even among otherwise very well informed credit men. Whether received from a mercantile agency or from a credit bureau or from a bank, a credit report is merely a collation of opinions regarding the status of a credit risk, gathered through inquiries in the trade and through personal observation of one or more reporters and aided by the risk's own statement, where such is available. At the best a credit report is guesswork, more or less accurate in accordance with the care, scope, and shrewdness with which the inquiry has been conducted. It is never, and can never be, a guaranty that a transaction with the risk in question will turn out as forecasted in the report. The customer will always be a credit *risk*. It leaves to the credit man himself to answer the question: "Shall I ship or shall I not ship?" It affords no check on the extent to which the foreign buyer utilizes his credit.

The credit report, in order to be of value, must be compiled with care, must contain as much information as possible regarding the nature of the risk's business, the approximate financial worth of the customer, his manner of paying bills at home and abroad, his character, his standing in the community, his record, etc. There can never be too much credit information in a foreign report, seeing that it has to supply the credit man with facts which he can easily ascertain at home regarding domestic credit risks, but which are beyond his observation in a foreign point. The report must make the credit risk a living, classified propo-

sition, instead of an abstract, impalpable, indefinable entity. The credit man must know with whom he is doing business, how he can do the business with the risk, and whether and how far he can trust him.

The American credit man is accustomed to his domestic report containing a great deal of information furnished by the customer himself, the gist of opinions gathered from the banks and in the trade, extracts from court publications and records of any judgments, etc., as well as the observations of the reporter. He misses many of these details in foreign reports.

It has taken many years to educate American tradespeople into willingly furnishing statements of their financial condition to mercantile agencies. In many foreign countries business habits are so different from ours that it is next to impossible either to demand a statement from a customer or to believe it after it has been obtained. Particularly in Latin-American countries and in the Orient a request for a statement frequently is regarded as an insult by business people, large or small. Still, a gradual change is being worked in this direction by the realization that the furnishing of such a statement will eventually work out to the benefit of the risk. Nevertheless, the report on a foreign risk will frequently be minus the familiar recital of figures showing the capital, assets, debts, etc., of the domestic risk, which at home often includes even an estimate of the value of his office fixtures, etc.

Due to the difference in trade organizations, the credit man will therefore not measure the foreign report by the standard of an average American credit report, either in size or in the quantity of definite data. No one in India or in Turkey or in many other countries can tell accurately what his neighbor is worth, and the neighbor won't tell. Some very good foreign customers will as soon divulge the combination of their safe to a chance inquirer as state just what they are worth, to whom they owe for merchandise, and how much money they have in the bank. Therefore, except in commercially well developed countries, such as Canada, the continent of Europe, the United Kingdom, and a few others, a report will be even more of a "hearsay" nature than at home.

In most foreign countries information regarding a credit

risk will be the result of inquiry among the rivals of the risk, among houses supplying him with goods, among banks, wholesale houses, etc. For this reason it is wise to procure reports from more than one source. No one reporter, no one reporting office, will always ascertain all of the ascertainable data regarding a customer. This is not so important when the general gist of the report is in itself decisive for a given transaction. A report may read: " X & Co. are one of the oldest and most honorable houses on this coast and have been in business for upward of 40 years. Their wealth is several hundred thousand pounds sterling." This will fully suffice to a credit man considering the advisability of shipping X & Co. $300 worth of goods. Pages of most detailed data would not alter the fact. On the other hand, the report may read: "Y & Z are a notorious firm of international swindlers, warned against frequently by consuls and others," and the matter is settled again.

These examples, of course, are extreme, but they tend to show that mere size is not the decisive element in a foreign credit report. What decides is not the number of words or details, but the clearness with which the actual standing of the customer is portrayed, enabling the credit man to come to a decision. Of course, the majority of proposed risks are somewhere in the middle between the two quoted extremes.

When the credit man sends his inquiry to his chosen source or sources of information, he will find it a great incentive to the reporters to furnish him with a report of practical value if he states the nature of the proposed transaction or the reason for his inquiry. The credit man will ask himself why he should divulge the nature of his business, but a little consideration will show him the reason. In commercially far-advanced countries the standing of every regular buyer of manufactured products has been looked into, and is being constantly looked into, by one or more mercantile agencies and by numbers of credit men. Therefore generally a report is available that will be fairly complete and from which the credit man can draw his conclusions. It is different in countries less advanced commercially, and in lines of business, such as agencies, representations, etc., where the means of the risk are less capable of being correctly gauged. Uneducated to the fact that it is to his benefit to furnish an ac-

curate statement, the risk may refuse to furnish it, robbing the reporter of one of the important avenues for thoroughly looking up the standing of a firm and checking up his own investigations with the firm's signed statement.

If the report is furnished with data regarding the proposed business transaction he will be in a position to govern his investigations with that point in view. The results will be more specific. Credit men complain that frequently reports furnished them lack definite data. Perhaps in some cases their inquiry lacked definiteness.

The need of obtaining information from more than one source is not based upon criticism of any mercantile agency or organization, but merely upon the fact that in many instances some particular fact or transaction bearing upon the character of a firm may escape the knowledge and the research of the best reporter. This does not refer to houses of the very highest standing, nor is it necessary to search any further when a mercantile agency declares a risk to be worthless. But that vast multitude of middle-class and small buyers frequently contains firms which will make an effort to maintain a good name with one or two banks by promptness in redeeming drafts and neglect its open accounts; firms that may keep up a good record with one manufacturer, in order to use him as a reference, and be otherwise undesirable customers; firms that may strictly adhere to their contracts, and yet take advantage of any loophole left them by some error or negligence on the part of a shipper; firms which will toe the mark where they know that unfounded complaints will be resisted, and prove very unpleasant where they think they can do so without trouble. Individual transactions of this kind may escape the notice of any one observer.

Again, in many of the minor points, where mercantile agencies do not maintain their own branches, the reporter may be a business rival of the concern reported on, and the consulting of several sources is urgently advisable. The consensus of opinion is what establishes the value of information in such cases. The danger from this source is not common, because of the care exercised by every well-conducted bureau or agency in selecting correspondents where they have no branches, and because these correspondents only in rare instances would attempt to jeopard-

ize their connection by giving a prejudiced report. On the other hand, all reporters are human and in spite of all care may overlook or misjudge facts. The credit man will never expect a credit report to be infallible.

With regard to definiteness in the inquiry, an instance will illustrate the point. This instance is one of the most flagrant cases of misconception regarding what constitutes a report that the compiler has met. A manufacturer requests a report on the character and standing of an individual in an Italian city. In due course the report comes: "X appears to be an honest agent, but has been here very a short time, having come from Messina, where he resided before the earthquake." The report is very indefinite. On the other hand, agents maintaining a small office can hardly be reported upon even in New York City with much accuracy. On the basis of this report a misguided manufacturer sent a remittance for several thousand dollars to the agent, for which the latter was to ship him some raw material used in manufacture. The agent shipped goods worth only a fraction of the amount received.

Here is an indefinite report, an indefinite inquiry, and the action which followed the report was not warranted by it. If the manufacturer had inquired whether he could trust the man with $5,000, sending the money in payment of some produce the agent was to buy, the reporter would have promptly replied that there was no material guaranty for such a transaction. If the same manufacturer were to send remittances of $5,000 to every person in the United States who would fit the description given the results would be disastrous to him.

The credit report is therefore in no sense a credit insurance, but merely an aid to the credit man, the value of which largely depends upon the credit man himself and his familiarity with the means of obtaining credit information and with gauging it after it is obtained.

It would be well for a credit man, in making his inquiry, to take the trouble of wording it something like this, although the reporting agencies might consider it troublesome: "Having in mind granting X & Co., of Manzanillo, Cuba, a credit of $1,000, on 60 days, I wish to know the standing and character of the firm, how long established, the name of their bankers at

home, if possible the names of houses from whom they buy in this country, how they pay their foreign and local bills, their acceptances, and their open-account debts."

In addition to the report received, the credit man will also consult every bank or business house with which the risk is in any connection, as may be seen from the report.

The time to ask for a credit report is when correspondence with a foreign customer is initiated. One should not wait until an order is definitely placed. The time for a thorough investigation may then be too short. Besides, it is important for the manufacturer to know with whom he is even corresponding.

A credit report once obtained does not, like wine, improve with age. At least once a year all of the reports on foreign customers should be renewed. If a manufacturer is in continuous business transactions with a foreign customer, each variation in the promptness of payments should be followed by an investigation; each time that the volume of buying appears to exceed the maximum credit previously settled with promptness a new inquiry should be made.

When the customer has become fairly well known to the manufacturer it may be conveyed to him that it would be a benefit to him to file a confidential statement with the manufacturer. Great tact and delicacy must be employed in such a request, and the manufacturer should never hesitate to state that such a course would enable him to act as a reference to other manufacturers, thus aiding the customer in establishing a definite credit standing.

To sum up, it is not of so much importance to a manufacturer to know the value of risk's fixtures, etc., but it is of importance for him to know the financial ability, the methods of payment, the integrity, and the capacity of the risk to take prompt care of a certain credit or series of credits. It is then not the size of the report, not the number of lines contained in it, but first the degree to which it authoritatively answers the questions uppermost in the mind of the credit man, which constitute its value.

One of the essential weaknesses of credit reports is the fact that even where definite information is given that such and such a customer is entitled to a credit of a certain amount, there is

no guarantee that the proposed risk does not overextend himself and either fraudulently or carelessly use the full limit of his creditability not only in the aggregate but repeatedly with a number of credit grantors.

The only way to prevent this is by some organized system of exchange of ledger experience. Until recently there has existed an undisguised spirit of jealousy and suspicion which prevented one credit man from approaching another with regard to ledger experience. It was not desired to give away the names of customers.

Within recent months two systems have been devised, one now in actual operation, the other still in the consultative stage, by which ledger experience may be exchanged without any fear of the loss of trade secrets. The National Association of Credit Men, New York, a progressive organization comprising in its membership the foremost credit men of the country has inaugurated this service. It is based on a mutual exchange of credit experience through the central clearing house in New York. A special membership has been recruited for this service. It is bound to be exceedingly helpful, but its good offices are limited to membership. The membership in the Foreign Credit Interchange Bureau of the National Association of Credit Men during the first month of its activity comprised 200 prominent exporters and manufacturers, and its operation from the very beginning proved a brilliant success and afforded eminent satisfaction to the users.

The second organization has been proposed by Mark O. Prentiss, Director of Public Relations of the National Surety Company. Mr. Prentiss advocates the incorporation of a foreign credit clearing house as a business corporation operated for profit, with the backing of financial and manufacturing interests. This organization will collate ledger experience and other data not only with regard to merchandizing risks but also to foreign securities and will furnish its advice to all bona-fide American business houses against compensation. It will give no credit information but will pass on credits and give answer to the question in the mind of the credit man and of the investor which is "shall I ship or shall I not ship?" and "shall I invest or shall I not invest?"

Operated on a proper basis, with suitable backing, this service will add a moral guarantee of great value to the credit man. Neither the effort of the National Association of Credit Men, nor the Prentiss plan imply any thought of eliminating the mercantile agency or other credit bureaus. They are merely designed to perfect the equipment of the credit man in meeting situations in which ordinary credit reports are inadequate. None knows better than the mercantile agencies that credit information is not, nor indeed can be an exact science. And no credit man will disparage the merit of the efforts of these agencies and credit bureaus in the promotion of safe extension of credit to foreign countries. The limitations of the usefulness of credit reports are inherent to them as efforts of human agencies, but up to the full limit of these boundaries they are of immense and actual value to the credit man.

3. *The American Banks and their Services to Exporters before the Enactment of the Federal Reserve Act.*

In taking up direct credit dealings between American manufacturers and their foreign customers, we may first consider the simplest method, namely, the so-called "open credit." While, on the one hand, it is referred to as the "simplest," being unattended by many of the formalities connected with documentary credit, it is, on the other hand, the least frequently employed method, for the reason that it is an unsecured transfer of the ownership of a manufacturer's products to a customer in a foreign land, and substitutes therefor a ledger obligation which, in the event of non-fulfilment, must be enforced by more or less tedious processess of law, and in the case of a bankruptcy necessarily ranks with other unsecured debts.

To grant anyone, whether at home or abroad, a line of open credit implies, first of all, confidence on the part of the seller in the buyer. It has taken some considerable study of foreign conditions, some familiarity with foreign buyers and their habits, and some personal experience in actual dealings with them to teach those manufacturers who are doing open-credit business with foreign customers that it is just as safe—or, for that matter, just as risky—to grant open-credit to a first-class house of

acknowledged integrity in a foreign market as at home, and, on the other hand, that domestic concerns in a shaky condition are about on par as undesirable credits risks with similarly situated foreign customers.

Thus we find American manufacturers granting open credits in the markets which they have studied best, in Canada, in Mexico, in Cuba, on the continent of Europe, and in the United Kingdom, and so on as they become acquainted and as they find the customers worthy of the cerdit. A study of the credit methods employed by the 166 American manufacturers who have responded to the compiler's circular of inquiry, shows a significantly large proportion of these manufacturers granting credit here and there to customers of unquestionable standing, and a remarkable freedom from unpleasant experiences.

Houses known to be first class are even granted open credit in some of the countries generally considered a little behind other export markets in stability; and, on the other hand, less desirable customers are refused credit even in near-by territories. Open-credit dealings, as stated, are based on confidence. Confidence is the result of satisfactory credit information and experience.

Next to the necessity of basing this confidence on substantial grounds, the credit man must exercise judgment in apportioning the amount of credit to the needs of the customer. It is best to agree with the latter (in the case of continuous supplies) on a maximum sum to be outstanding at any one time, as well as on a time basis, 30, 60, 90, or more days (as the case requires) within which every invoice must be paid, interest on outstandings, etc. There may be times when the maximum amount granted may have been shipped, and other orders must be got ready before remittance is made. A certain latitude and elasticity are necessary, but the credit man will be keenly alive to the correlation between agreement and fulfilment. Good reasons may fully explain and justify any necessary extension of time and the stretching of limit, but a good credit man is a strategist and he will know when to call halt.

In open-credit dealings there may be a temptation on the part of a minor though perfectly worthy customer, when about reaching the limit of credit accommodation granted by a manu-

facturer and for some reason or other being compelled to delay the settlement of the outstandings, to place orders with rival suppliers. A wise manufacturer will watch that he be not made a convenience for this purpose. If a retail merchant in Havana is stated to be a good risk for $1,000, and having bought goods to that amount from his regular supplier he finds himself in need of more goods and places orders for similar amounts with two, three, or more manufacturers, he may be overbuying, and his credit standing is to that extent diminished. In dealings with regular customers the credit man will encourage them to perfect frankness when certain circumstances arise which necessitate additional purchases beyond the limit granted. Full explanations and some extra guarantee for the excess should be forthcoming rather than permit the unsatisfactory policy of embroiling a number of manufacturers in assuming a less satisfactory risk. The checking of such practices is the principal function of the credit clearing house, a species of which we have in the Foreign Credit Interchange Bureau of the National Association of Credit Men.

Open credit, of course, places the manufacturer to a certain extent at a disadvantage as compared with his customer. The latter has possession of the goods or the proceeds of the sale thereof. He may find fault with them and clamor for arbitrary deductions or discounts. For this reason open credit should not be granted to any firm but one of absolutely unobjectionable business methods. There are firms of unquestionable financial standing but of questionable business tactics. It is not necessarily a reproach on foreign firms. There are firms of similar type in the United States. If open credit is restricted to perfectly substantial foreign customers whose business habits are above reproach (and there are very many of these in foreign markets), open credit abroad is as safe a risk (but always a risk) as open credit at home.

Collection of open-credit indebtedness may be made in several ways. It may be agreed upon that each invoice be settled at so-and-so many days by a direct remittance in London or New York funds, or remittance may be arranged each month on the basis of settling for items shipped 30, 60, 90, or more days back. Or instead of the remittance, the manufacturer may draw at

sight or three days' sight, the draft to be presented about the time the items are due; or, again, the manufacturer may draw for the amount of an invoice at the time of shipment, the bill maturing at the expiration of the credit limit granted, but acceptance being exacted at the time of the arrival of the goods. The latter system is favored by many manufacturers as it fixes a definite time for the payment of an individual invoice.

The drafts in question, of course, are so-called "clean bills," in contradistinction to "documentary bills." The banks seldom buy these clean bills, but principally accept same for collection.

When business is done through the commission merchant, the financing is done by the commission merchant, and when the manufacturer grants open credit direct, the manufacturer does the financing. When goods are sold "cash against documents in New York," or "sight drafts against documents in New York," the financing of foreign shipments is done by the customer, either direct or through his local and foreign banking connections, and we can not, therefore, speak of "credit" transactions.

But distinctly in the nature of "credit" transactions are the numerous instances in which goods are sold against time draft attached to documents, although the manufacturer may immediately sell or discount the draft. The possession of the money equivalent for the shipment by no means concludes the transaction, as far as the manufacturer is concerned. He may have received his money, but his responsibility lasts until the customer's payment for the bill has finally reached the bank.

A time draft, to which are attached the documents appertaining to a shipment, is always bought or discounted by a bank with a distinct recourse clause, meaning that in case the customer does not settle, the manufacturer is bound to make good the amount paid him by the bank. This transaction, therefore, is nothing more or less than a loan made by a bank to a manufacturer on the basis of the confidence the bank feels in the manufacturer's standing, strengthened by the evidence of a bona fide commercial transaction involving the transfer of a supposedly valuable shipment to a supposedly trustworthy buyer abroad. It will be seen, therefore, that the standing of the manufacturer is the principal consideration. The bank may not know whether

the contents of the shipment actually correspond to the invoice. It presumes that the manufacturer has taken care to learn about the trustworthiness of the foreign customer, although it does not really worry about the latter, unless it happens to know that he is no good financially, when the bank will refuse to negotiate the papers, because it would not pay it to waste correspondence, etc., in the matter, the failure to honor the draft being a foregone conclusion.

A good many manufacturers would consider it below their dignity to negotiate loans of a hundred or a thousand dollars with any bank, but they do not hesitate to discount their drafts on foreign customers for similar amounts, eager to "close" each transaction connected with foreign shipments. They, indeed, do not realize the loan character of the transaction. Many manufacturers who do realize this element of the draft-discounting business prefer to send their drafts for collection, either to their own local bankers or to bankers in New York having foreign departments, or to a bank in the locality of the debtor, charging their customers interest for the entire time they are out their money, and preferring to do their own financing of the foreign shipment. This is considered by a large number of prominent export men the most satisfactory method, where the aggregate capital thus tied-up is not considerable, of course, a point may be reached where no manufacturer can afford to further finance his foreign customers.

We may now consider the meaning and standing of drafts in general, their place in the economy of foreign financing, as well as certain details in connection with drawing, discounting, and collecting drafts drawn by American manufacturers, and the nature of documents attached to so-called "documentary" drafts.

A bill of exchange, or a draft, is a credit instrument drawn either on a bank, or on a merchant, or on any debtor who gives the creditor a right to draw on him. According to *Byles* on *"Bills of Exchange,"* this instrument had its origin in ancient times when it was a letter of credit from a merchant in one country to a debtor, a merchant in another country, requiring him to pay the debt to a third party who carried the letter and happened to be traveling to the place where the debtor resided. It is an order by one party to another requiring the person to

whom it is addressed to pay on demand, or at a certain determined future time, some money to, or to the order of, a specified person, or to bearer. A check is merely a draft drawn on a bank payable on demand to a third party or to bearer, the funds being deposited with the bank to the credit of the drawer. Time and space are elements in the bill of exchange. It is generally payable at some future time in the exchange of goods between persons separated by distance. The original essence of a bill of exchange *(Withers, "The Meaning of Money")* was as a claim for the payment of a debt based on the movement of salable produce to the place at which it is expected to find a market. The person receiving the goods accepts the bill as payable at a certain future time (maturity), which makes the paper immediately negotiable or convertible into cash by the process of discount.

We are not concerned in reviewing here such species of the bills of exchange as are created in the anticipation of crops, etc., or are drawn by a house on its own branches abroad, or vice versa, known as "house bills," or also as single name paper or finance bills, but distinctly with drafts appertaining to shipments of American manufactured goods from the United States to other countries.

We have seen that a bank in discounting a draft drawn by a manufacturer on a foreign customer in payment for a shipment made, simultaneously actually grants the manufacturer a loan for the amount of the indebtedness of the foreign customer. The bank finds its security in the standing of the manufacturer, in the apparent value of the shipment concerned, and lastly in the financial ability of the customer whose acceptance takes the place of the goods as a security after the latter have passed into his possession. Since the transaction of negotiating a draft through the bank discounting same is in the nature of a loan, the bank may justly refuse to accommodate a drawer of whose standing it is not perfectly sure.

The documentary draft is accompanied by complete "documents." Chief among these are the export bills of lading or the ocean bills of lading. The former are issued by a railway company to a shipper in an interior point and relate to merchandise taken by the railway company to the seaboard, whence a steam-

ship line carries the same to destination. The ocean bills of lading are issued by the steamship or sailing-ship company at the port.

Bills of lading must be made out to the order of the shippers and by them indorsed in blank, so that the title to the merchandise remains as a lien in the possession of the holder of the bill, and all copies extant must be delivered to the bank negotiating the draft. Bills of lading drawn to the order of the consignee are not generally accepted by the banks in this connection because they furnish no security, and the holders of such bills of lading have no lien on the goods. Bills of lading must be made out in duplicate or triplicate; the number of copies issued must always appear on the face of the bill of lading. Banks abroad very often refuse acceptance of bills drawn against (railway) through bills of lading, because they object to bills of lading signed by an ordinary railway employee, and also because the actual departure from port is not apparent therefrom, whereas the bank may be instructed to honor the draft if the ocean shipment is made within a specified time.

The merchandise should be in all cases insured against marine risks, either by drawer or by drawee, and in the former case the insurance certificate is one of the documents attached to the draft. The insurance generally relates to the interval between the time the goods are loaded on board ship until they are discharged at the port of destination, but special arrangements may be made whereby the period covered includes the entire time between the receipting for the goods by the steamship company's agents and the delivery to consignee. The certificates of insurance are generally issued by the exporters under open policies of insurance, one copy of the policy remaining with the marine insurance company, and another remaining in the hands of the exporter, who pays his premiums regularly and issues his own certificate. Insurance certificates should likewise be made out to the order of the shippers and indorsed by them in blank, so that the holder may collect direct in case of loss. The insurance should cover the approximate cost of the draft and is generally a little in excess of the invoice value. Where insurance is effected abroad, a written statement to that effect must be made by the drawer.

A shipper's invoice is generally attached to documentary drafts. This invoice is not absolutely necessary, and may be placed in a sealed envelope attached to the draft, so as to avoid publicity as to prices, etc. As a matter of fact, it is not necessary for the banker to see the invoice, but if the drawer is dishonest (*Margraff, "International Exchange"*), then he can inflate the invoice values anyway. It is the integrity of the drawer which constitutes the chief value of a draft with documents attached.

We need not here enter upon a discussion of the details of the certificates which are required by certain countries, such as certificates of inspection, weight certificates, etc., but complete shipping documents should accompany each documentary draft, and the varying character of same may be ascertained through the usual channels of information, exporters' handbooks, forwarding agencies, etc.

Elsewhere we have explained the difference between documentary payment and documentary acceptance drafts. The drafts presented by American manufacturers for discount or collection are generally of the latter character.

There are a number of channels open for American manufacturers who wish to have their foreign drafts negotiated. They can go to their own local banker, and if the latter has good New York connections they may fare practically as well as a manufacturer discounting his bills in New York City. It is really only in the larger transactions that an appreciable difference will be found, still provided that the local banker has made reasonable arrangements with any American bank having a foreign department.

Where the transactions are of sufficient importance, the manufacturer may find it to his advantage to make inquiry among the large handlers of foreign exchange in New York City and Chicago, and he will find that some day one bank, another day a different bank, will be able to give him better rates, although naturally the banks do not like this. This difference, slight on small transactions, but of importance in proportionately larger ones, is due to the variations in the demand each bank has from day to day for certain bills and the supply thereof.

In addition to the national banks in New York City maintaining foreign departments, there are a number of private banking concerns making a specialty of various markets, a few of them doing also a commission business. Lastly, there are in New York the agencies of foreign banks for certain territories, such as Australia, South Africa, South America, Cuba, etc.

New York City is the purchasing center of foreign exchange in the United States. It absorbs practically the entire volume of foreign credit balances created by foreign drafts bought by American bankers. The New York bankers are the deciding factor in determining the prices for the purchase and sale of bills on all foreign countries, as far as United States is concerned. New York foreign exchange brokers send daily quotations to their western clients, and our international trade balances are adjusted by New York City bankers.

In considering the facilities open to American manufacturers prior to the enactment of the Federal Reserve Act, the author describes the situation in his monograph on *"Foreign Credits"* as follows:

The question whether the American manufacturer is or is not at a disadvantage in discounting his bills on foreign countries, as compared with the German and the British manufacturers, is a difficult one to answer by "yes" or "no." When reference is made to individual transactions it will be found that an American manufacturer of standing will have no trouble in having his ordinary bills on most foreign countries discounted by American bankers, or the New York agents of foreign banks, or he has the choice of sending his bills for collection to the banks located in foreign points, and it is apparent that in either case the cost of the transaction to him is no greater than to the German or to the British shippers. It is in the general system of financing foreign shipments that the Europeans have the advantage. The elastic system which permits banks to accept bills drawn on them by their customers, who can have these bills rediscounted, the existence in Germany and in England of authoritative institutions laying down the discount and loan rates which automatically guide the entire banking system in its dealings with individual clients, and finally the presence of an open discount market which permits bankers to employ funds in the

purchase of bankers' and prime merchants' bills and to rediscount same when cash funds are needed—these are among the principal aids to a freer system of financing the foreign business than that prevailing in the United States. In the United States paper discounted for a bank's customers is held until maturity and is so much dead weight in the bank's vaults, the operations being, therefore, necessarily restricted; in fact, it is only because American bankers are able to discount bills purchased from American exporters in the foreign money markets that they are at all in a position to negotiate such bills for their customers*).

To sum up the review of the American manufacturer's credit problem, the following facts may be pointed out:

1. A large proportion of American exporting manufacturers have given careful study to the subject of foreign credits.

2. With a growing tendency to deal direct with the foreign customers and an increased familiarity with foreign conditions, many American manufacturers have been granting reasonable credit accommodations to customers in many countries.

3. The major portion of American manufacturers willing to grant credit abroad are wisely in favor of restricted credit terms, sufficient to allow the customer to receive his goods, examine them, and place them in stock. The advisability of granting unduly long credits is doubted, for the length of credit as selling argument is apt to appeal to the least desirable class of customers.

4. American manufacturers, in spite of the disadvantages of the American banking system pointed out, nevertheless do not seriously suffer from any disability either in discounting their bills on foreign points or in having them collected on reasonable terms.

5. Nevertheless the entire system of financing American export shipments, as distinct from the question of discounting of individual drafts by manufacturers of standing, suffers in comparison with the German and British methods with regard to elasticity and scope, making it impossible for American manufacturers to undertake the financing of foreign accounts on so

*) This condition has been largely remedied since 1914, as described in the next Chapter.

large a scale as is done by German and British export merchants (and to a lesser degree by German and British manufacturers), as the banks under American conditions (lack of open discount market and bank acceptances) can not co-operate with them to the same extent as the German and British banks co-operate with the export merchants and manufacturers of Germany and England. The lack of rediscounting facilities necessarily restricts the service of American banks in this respect*).

6. The old-time rigid policy of "cash against documents" at the port of shipment is being more and more retired in favor of a rational liberality, and is now restricted mostly to novices in the export trade, manufacturers without a foreign sales organization, and occasional exporters, or else applies to certain lines which are by trade usage cash lines.

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*) This paragraph as quoted refers to conditions which have been largely remedied since the enactment of the Federal Reserve Act, as described in the next Chapter.

CHAPTER XVI.

D. The American Banks and their Service to Exporters Since the Enactment of the Federal Reserve Act.

1. THE FEDERAL RESERVE SYSTEM AS AFFECTING THE FINANCING OF FOREIGN SHIPMENTS.

The Federal Reserve Act was approved December 23, 1913. It was entitled "An Act to provide for the establishment of Federal Reserve Banks, to furnish an elastic currency, to afford means of re-discounting commercial paper, to establish a more effective supervision of banking in the United States, and for other purposes." It has been revised and amended on several occasions, the last being on March 3, 1919. The act authorized the Secretary of the Treasury, the Secretary of Agriculture and the Comptroller of the Currency, acting as "The Reserve Bank Organization Committee" to designate not less than eight, nor more than twelve Federal reserve cities, having divided the continental United States and Alaska into as many districts. A Federal Reserve Bank was to be organized in each of these cities. At the present time the organization is as follows: District No. 1, Boston; No. 2, New York; No. 3, Philadelphia; No. 4, Cleveland (branches at Pittsburgh and Cincinnati); No. 5, Richmond (branch at Baltimore); No. 6, Atlanta (branches at New Orleans, Birmingham, Jacksonville); No. 7, Chicago (branch at Detroit); No. 8, St. Louis (branches at Louisville, Memphis, Little Rock); No. 9, Minneapolis; No. 10, Kansas City (branches at Denver, Omaha); No. 11, Dallas (branch at El Paso); No. 12, San Francisco (branches at Portland, Seattle, Spokane, Salt Lake City). The ruling body is the Federal Reserve Board, with the Secretary of the Treasury and the Comptroller of the Currency as ex-officio members, a Governor, a vice governor, two members at large, a secretary,

two assistant secretaries, fiscal agent, statistician, general counsel, director of the division of analysis and research and director of the division of foreign exchange.

There is also a Federal Advisory Council with a member in each of the 12 districts. Every national banking association or national bank in each district was required and every eligible bank and trust company was authorized to subscribe to the Federal Reserve Bank in its district a sum equal to 6% its paid-up capital stock and surplus.

Section 13 of the Act, as variously amended and here quoted in extract, thus describes the powers of Federal Reserve Banks:

Sec. 13. Any Federal reserve bank may receive from any of its member banks, and from the United States deposits of current funds in lawful money, national bank notes, Federal reserve notes, or checks, and drafts, payable upon presentation, and also, for collection, maturing notes and bills; or solely for purposes of exchange or of collection, may receive from other Federal reserve banks deposits of current funds in lawful money, national bank notes, or checks upon other Federal reserve banks, and checks and drafts, payable upon presentation within its district, and maturing notes and bills payable within its district; or, solely for the purposes of exchange or of collection, may receive from any non-member bank or trust company deposits of current funds in lawful money, national-bank notes, Federal reserve notes, checks and drafts payable upon presentation, or maturing notes and bills: *Provided,* Such non-member bank or trust company maintains with the Federal reserve bank of its district a balance sufficient to offset the items in transit held for its account by the Federal reserve bank: *Provided, further,* That nothing in this or any other section of this act shall be construed as prohibiting a member or non-member bank from making reasonable charges, to be determined and regulated by the Federal Reserve Board, but in no case to exceed 10 cents per $100 or fraction thereof, based on the total of checks and drafts presented at any one time, for collection or payment of checks and drafts and remission thereof by exchange or otherwise; but no such charges shall be made against the Federal reserve banks.

Upon the indorsement of any of its member banks, which shall be deemed a waiver of demand, notice and protest by such bank as to its own indorsement exclusively, any Federal reserve bank may discount notes, drafts, and bills of exchange arising out of actual commercial transactions; that is, notes, drafts, and bills of exchange issued or drawn for agricultural, industrial, or commercial purposes, or the proceeds of which have been used, or are to be used for such purposes, the Federal Reserve Board to have the right to determine or define the character of the paper thus eligible for discount, within the meaning of this Act. Nothing in this Act contained shall be construed to prohibit such notes, drafts, and bills of exchange, secured by staple agricultural products, or other goods, wares, or merchandise from being eligible for such discount; but such definition shall not include notes, drafts, or bills covering merely investments or issued or drawn for the purpose of carrying or trading in stocks, bonds, or other investment securities, except bonds and notes of the Government of the United States*).

The aggregate of such notes, drafts, and bills bearing the signature or indorsement of any one borrower, whether a person, company, firm, or corporation, rediscounted for any one bank shall at no time exceed ten per centum of the unimpaired capital and surplus of said bank; but this restriction shall not apply to the discount of bills of exchange drawn in good faith against actually existing values.**)

Any Federal reserve bank may discount acceptances of the kinds hereinafter described, which have a maturity at the time of discount of not more than three months' sight, exclusive of days of grace, and which are indorsed by at least one member bank.

Any member bank may accept drafts or bills of exchange drawn upon it having not more than six months' sight to run, exclusive of days of grace, which grow out of transactions in-

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*) Or bonds of the War Finance Corporation. See act approved Apr. 5, 1918.

**) Amended by section 11 (m), as amended March 3, 1919.

volving the importation or exportation of goods; or which grow out of transactions involving the domestic shipment of goods provided shipping documents conveying or securing title are attached at the time of acceptance; or which are secured at the time of acceptance by a warehouse receipt or other such document conveying or securing title covering readily marketable staples. No member bank shall accept, whether in a foreign or domestic transaction, for any one person, company, firm, or corporation to an amount equal at any time in the aggregate to more than ten per centum of its paid-up and unimpaired capital stock and surplus, unless the bank is secured either by attached documents or by some other actual security growing out of the same transaction as the acceptance; and no bank shall accept such bills to an amount equal at any time in the aggregate to more than one-half of its paid-up and unimpaired capital stock and surplus: *Provided, however,* That the Federal Reserve Board, under such general regulations as it may prescribe, which shall apply to all banks alike regardless of the amount of capital stock and surplus, may authorize any member bank to accept such bills to an amount not exceeding at any time in the aggregate one hundred per centum of its paid-up and unimpaired capital stock and surplus: *Provided, however,* That the aggregate of acceptances growing out of domestic transactions shall in no event exceed fifty per centum of such capital stock and surplus.

Any Federal reserve bank may make advances to its member banks on their promissory notes for a period not exceeding fifteen days at rates to be established by such Federal reserve banks, subject to the review and determination of the Federal Reserve Board, provided such promissory notes are secured by such notes, drafts, bills of exchange, or bankers' acceptances as are eligible for rediscount or for purchase by Federal reserve banks under the provisions of this Act, or by the deposit or pledge of bonds or notes of the United States.

Section fifty-two hundred and two of the Revised Statutes of the United States is hereby amended so as to read as follows: "No national banking association shall at any time be indebted, or in any way liable, to an amount exceeding the amount of its capital stock at such time actually paid in and remaining un-

diminished by losses or otherwise, except on account of demands of the nature following:

First. Notes of circulation.

Second. Money deposited with or collected by the association.

Third. Bills of exchange or drafts drawn against money actually on deposit to the credit of the association, or due thereto.

Fourth. Liabilities to the stockohlders of the association for dividends and reserve profits.

Fifth. Liabilities incurred under the provisions of the Federal Reserve Act.

The discount and rediscount and the purchase and sale by any Federal reserve bank of any bills receivable and of domestic and foreign bills of exchange, and of acceptances authorized by this Act, shall be subject to such restrictions, limitations, and regulations as may be imposed by the Federal Reserve Board.

Any member bank may accept drafts or bills of exchange drawn upon it having not more than three months' sight to run, exclusive of days of grace, drawn under regulations to be prescribed by the Federal Reserve Board by banks or bankers in foreign countries or dependencies or insular possessions of the United States for the purpose of furnishing dollar exchange as required by the usages of trade in the respective countries, dependencies, or insular possessions. Such drafts or bills may be acquired by Federal reserve banks in such amounts and subject to such regulations, restrictions, and limitations as may be prescribed by the Federal Reserve Board: *Provided, however,* That no member bank shall accept such drafts or bills of exchange referred to this paragraph for any one bank to an amount exceeding in the aggregate ten per centum of the paid-up and unimpaired capital and surplus of the accepting bank unless the draft or bill of exchange is accompanied by documents conveying or securing title or by some other adequate security: *Provided further,* That no member bank shall accept such drafts

or bills in an amount exceeding at any time the aggregate of one-half of its paid-up and unimpaired capital and surplus.

We are not concerned in this present study with the far-reaching effects of the Federal Reserve system upon the economic life of the nation beyond those that refer strictly to international merchandizing and allied matters. These effects include the broadening of the bank acceptance practice and the extension of re-discounting facilities; the increased use of trade acceptances; the establishment of foreign branches of American banks abroad, the proposed Federal incorporation of banking companies doing a strictly foreign business and the relations of the Federal Reserve Banks with foreign banks.

Before we pass to a detailed consideration of the bank acceptance technique or commercial banking practice and the service of individual banks, whether operating foreign branches or not, we may with advantage quote from the Annual Report of the Federal Reserve Board for 1918 some particularly striking portions bearing on the effects of the system which in the foregoing paragraph we mentioned as noteworthy from the merchandizing point of view.

In this connection we must bear in mind that the operations of the Federal Reserve system almost since its inception have been carried on during abnormal times, the war in Europe before the American intervention, and the entry of the United States into the World War. The discount policy of the Federal Reserve Board has necessarily been co-ordinated with Treasury requirements and policies which in turn have been governed during the past two years by demands made upon the Treasury for war purposes. The principal acceptance market has been and will be naturally in New York, although an open market for acceptances has also been established in Boston. The following table gives the interdistrict movement of bills discounted or purchased by the Federal Reserve Board during the period from January 1 to December 31, 1918.

Interdistrict movement of bills discounted or purchased by Federal Reserve Banks during the period from Jan. 1, to Dec. 31, 1918.

[In thousands of dollars.]

Federal Reserve Bank.	Rediscounts and sales between Federal Reserve Banks.				Acceptances purchased for account of other Federal Reserve Banks.		Direct purchases of acceptances in other Federal Reserve districts.		Interdistrict movement of discounted and purchased paper.	
	Rediscounted or sold by—	Discounted or purchased by—	Excess of rediscounts and sales.	Excess of discounts and purchases.	Amount purchased by—	Amount purchased for account of—	Market in which purchased.	Purchasing bank.	Excess movement from—	Excess movement to—
Boston	120,297	19,898	100,399	.....	.....	1,907	2,057	8,503	92,046	.....
New York	180,901	67,681	113,220	.....	174,860	.....	41,411	.....	329,491	.....
Philadelphia	50,149	66,365	.....	16,216	.....	18,949	.....	21,397	.....	56,562
Cleveland	.....	137,115	.....	137,115	.....	65,628	.....	4,791	.....	207,534
Richmond	69,063	331	68,732	.....	.....	.....	.....	.....	68,732	.....
Atlanta	80,293	2,514	77,779	.....	.....	57	.....	.....	77,722	.....
Chicago	9,984	200,398	.....	190,414	.....	1,093	.....	3,685	.....	195,192
St. Louis	12,500	9,051	3,449	.....	.....	.....	.....	2,770	679	.....
Minneapolis	24,996	99,462	.....	74,466	.....	6,384	.....	2,057	.....	82,907
Kansas City	8,530	25,047	.....	16,517	.....	11,047	.....	.....	.....	27,564
Dallas	103,925	8,242	95,683	.....	.....	1,283	.....	265	94,135	.....
San Francisco	.....	24,534	.....	24,534	.....	68,512	.....	.....	.....	93,046
Total	660,638	660,638	459,262	459,262	174,860	174,860	43,468	43,468	662,805	662,805

The activities of the Federal Reserve system in regard to acceptances are thus described in the 1918 Annual Report:

Acceptances.

The acceptance is a comparatively new development in American finance. A few of the States, just prior to the passage of the Federal Reserve Act, authorized banks and trust companies operating under State charters to accept bills of exchange drawn upon them, and the Federal Reserve Act authorized such transactions on the part of member banks where the drafts or bills have not more than six months to run and where they grow out of transactions involving the importation or exportation of goods, the total volume of such acceptances outstanding at any one time not to exceed in the aggregate one-

half of the paid-up capital and surplus of the accepting bank. The Act of March 3, 1915, authorized the Federal Reserve Board to discount acceptances in a total amount not exceeding the capital and surplus of the accepting bank, and the act of September 7, 1916, authorized member banks to accept drafts and bills growing out of transactions involving domestic shipments of goods, provided shipping documents conveying or securing title are attached at the time of acceptance, or which are secured at time of acceptance by warehouse receipts or other similar documents conveying or securing title, covering readily marketable staples. The total amount of domestic bills which may be accepted by a member bank may not exceed at any one time in the aggregate one-half of its paid-up and unimpaired capital stock and surplus.

The Board had on December 31, 1918, authorized 161 member banks to accept up to 100 per cent of their capital and surplus. Purchases of acceptances constituted the greater part of the open-market transactions of the Federal Reserve Banks. Acceptances bought are mainly bankers' acceptances, although trade acceptances, which are drafts drawn by the seller upon the purchaser of goods and which may be either foreign or domestic in their character, are now being acquired in increasing volume, in some districts the aggregate of trade acceptances being 5 per cent or more of the total acceptance holdings, the total for the system being slightly more than 3 per cent.

Trade acceptances are discounted more freely upon the indorsement of member banks, and a differential of one-fourth of 1 per cent is usually in favor of these acceptances as against promissory notes.

The following tabular statement of acceptances bought in the open market by the Federal Reserve Banks during the past four years shows the large increase in the volume of the acceptance business:

Acceptances bought in open market by Federal Reserve Banks.

[In thousands of dollars; i. e., 000 omitted.]

	Bought in open market—				Purchased from other Federal reserve banks.	
	1915	1916	1917	1918	1917	1918
Boston	14,105	52,377	86,481	194,158	5,047	6,709
New York	25,834	123,406	445,307	945,498	19,659	50,182
Philadelphia	7,565	53,122	70,710	77,686	15,204	42,321
Cleveland	2,963	27,512	51,007	122,800	40,102	54,199
Richmond	250	11,313	54,759	70,766	3,357	331
Atlanta	72	12,544	25,388	45,477	1,005	2,514
Chicago	5,782	27,061	61,142	122,787	5,572	100,077
St. Louis	1,801	20,681	22,788	26,096	6,944	4,551
Minneapolis	1,455	13,539	16,397	13,903	16,675	25,911
Kansas City	1,788	8,191	17,561	14,691	9,264	19,047
Dallas	.....	3,543	9,743	25,024	25,333	8,242
San Francisco	3,230	32,776	48,018	150,653	20,249	22,506
Total	64,845	386,095	909,301	1,809,539	168,411	336,590

Bankers' acceptances are regarded as the most liquid of all investments, and it has always been the policy of the Board to permit a substantial differential in their favor. The rates on acceptances are subject to fluctuations, reflecting accurately the varying conditions of the money market, and consequently the Board has never fixed a definite rate for them but has prescribed maximum and minimum rates within the limitations of which the Federal Reserve Banks are permitted to purchase bills.

In 1915 Federal Reserve Bank acceptance rates ranged between 2 and 3 per cent, and at the present time the minimum rate is 4 per cent.

The private rate in London has for the past nine months been about 3½ per cent against average current rates in New York of 4¼ per cent. While this difference may have diverted some business to the English banks, the Board has not as yet deemed it advisable for the Federal Reserve Banks to meet the British rate, because of the large financial operations of the Treasury, and for other reasons which are stated below. It was thought that a lower rate for any class of paper than that borne by member banks' 15-day collateral notes secured by Govern-

ment obligations might have an unfavorable effect upon the Treasury's operations.

The British rate of 3½ per cent, however, has been maintained for nearly a year, despite the fact that London banks have been paying 3 per cent interest on domestic balances and 4½ per cent interest on foreign balances, while the British Government is paying 5 per cent on loans made to it by the United States Government. The report of the British Committee on Currency and Foreign Exchanges, dated August 18, 1918, however, indicates the possibility of an advance in the British discount rate on acceptances. As no reduction in the rate for paper secured by Government obligations is contemplated by the Board, a lower acceptance rate at Federal Reserve Banks would have a tendency to reduce the proportion of bond-secured paper held by them, and to bring about a corresponding increase in their proportion of commercial paper holdings.

In considering rates of discount for bankers' acceptances in the United States, certain fundamental differences between the London and the New York money markets must be kept in mind. In London there is an official rate fixed by the Bank of England, known as the bank rate, and there is also an open-market or private rate. The bank rate is the rate at which the Bank of England will buy approved bills of exchange in the London market. The bank will not buy the acceptances of foreign banks domiciled in London nor of foreign agencies established in London.

The London market can avail itself of the rate established by the Bank of England, which is prepared at all times to absorb bills at its prevailing discount rate. The bank itself, whenever it seems desirable, operates in the market, absorbing funds when it wishes to maintain or advance the rate, and whenever it wishes to ease the market the bank takes an active instead of a passive part in the purchase of bills of exchange. The Bank of England rate is usually higher than the private rate, which is governed by the demand for and supply of bills of exchange. The supply is represented largely by bills drawn for the purpose of carrying on international commerce in the form of 60 and 90 days' sight acceptnces drawn upon English banks and ac-

ceptance houses. The demand in the open market comes mainly from the joint-stock banks, private banks, and discount companies, and represents accumulated funds whose use in other channels is not expected to develop for some time—say, 30, 60, or 90 days and sometimes for longer periods. Bills of exchange available for discount with the Bank of England are purchased by these institutions with the knowledge that they can always be disposed of at the bank on the day of sale, and this knowledge gives such elasticity to investments in bills of exchange that purchases are made freely from moneys temporarily idle, and a large portion of the resources of the purchasing institution is carried in the shape of bills purchased at the open-market rate which are discountable at the Bank of England. Should a feeling arise in the course of market operations that the Bank of England is likely to raise its rate, which is usually done in gradations of one-half of 1 per cent to 1 per cent, that open-market rate, or private rate, will rise in anticipation of the change, above the official bank rate. During a period when the bank rate seems to have been established at a definite figure and when no changes are anticipated, the tendency of the private rate is to drop below the bank rate and to continue there. Bankers and discount houses purchasing bills of exchange at the private rate know that in any event they can sell their bills at the bank rate, and if this rate holds fairly steady they have an opportunity to earn the full interest obtainable on bills purchased for such time as they may be held. Furthermore, purchasers know that if the bills are carried for a considerable portion of the time they have to run and then must be sold at the bank rate, there will be a profit on the investment for the time the bills are carried even though sold at the higher bank rate.

The accumulation of funds in London from all parts of the world has been invested to a large extent in bills of exchange for many years. Experience, demonstrating the safety of these investments, has given great elasticity to the operations and has made the open discount market in London for bills of exchange so broad that large transactions are carried on without noticeable effect upon the money market. It is therefore natural that during periods of steady money rates the private rate should rule below the bank rate.

Before the war, time bills of exchange were drawn upon London covering exports and imports between England and other countries and between foreign countries, all of which created a vast turnover, which the English money market was able to absorb because of the accumulation of funds in London available for such investments. During the war, owing to several causes, sterling bills of exchange were not created in nearly so large a volume. One reason for this is that the United States Government was making loans in dollars to Great Britain, France, and Italy to provide for purchases by thes nations in the United States, and another is that purchases made by these nations in the United States include raw materials which have been imported into the United States to be used in the manufacture of goods for the allied powers which otherwise might have been imported direct by those nations. This applies particularly to food, clothing, and munitions. As a result, the British money market is, or has been until recently, rather bare of bills of exchange. Funds available in London for use in the open market are probably greater now than in normal times, as there has been an accumulation due to the fact that foreign exchanges have generally ruled against Great Britain, which has made the withdrawal of sterling balances by foreign nations difficult and expensive. Even though the bank rate has been maintained at 5 per cent, the private rate has naturally fallen below this figure and has ruled around 3½ per cent. The cost of converting sterling balance into balances in other countries where a higher interest rate might be obtained, added to the increased risks of such conversion due to the war, has operated to prevent transfers from the London market which otherwise might have been made.

At the beginning of the war in 1914 the creation of sterling bills of exchange in all parts of the world was stopped for the time being, and as a result there was a very large amount of unloanable funds in the London open-money market. The London joint-stock banks were obliged to lower the rate of interest which they paid upon balance to a point below the normal difference of 1½ per cent off the bank rate. After a third moratorium proclamation, which re-established the credit of British institutions all over the world, the drawing of time sterling bills

was resumed on a large scale, and as a result London money rates went above 6 per cent. After the United States came into the war the creation of sterling bills fell off rapidly for reasons already stated, which resulted in bringing the British money market into the position outlined.

In New York, which at the present time is the only city in the United States which has anything like a broad acceptance market, the rate established by the Federal Reserve Bank is followed closely by the outside market, because there are not ordinarily sufficient funds available in New York open market to absorb acceptances offered, and consequently there is no tendency for the outside rate to go below the Federal Reserve Bank rate. Should there be a period of very easy money, it is probable that the outside rate in New York would fall somewhat below the Federal Reserve Bank rate. This will transpire whenever bankers feel that they can hold bills until maturity without being obliged to transfer them to the Federal Reserve Bank during the life of the bills.

With the present restrictions upon foreign trade and without free shipments of gold between Great Britain and the United States, the New York and London money markets stand each upon its own bottom and are not subject to the ordinary leveling process usual in normal times. This being true, the Federal Reserve Board has felt justified in basing the rates of the Federal Reserve Banks upon our own money-market conditions instead of considering them in the light of market conditions abroad, as may become necessary upon the restoration of normal conditions. The problem of establishing discount rates for acceptances throught the Federal Reserve Bank in New York since the United States entered the war has, consequently, been entirely free from any consideration of the English rate. It should be borne in mind also that our acceptance rate is applied to bills of exchange drawn upon banking institutions authorized by law to accept time bills under certain restrictions. Our law provides for domestic acceptances only to a limited extent (50 per cent of the capital and surplus of the accepting bank) and was framed especially to promote our foreign trade.

During the war we were obliged to import on balance a very large volume from many countries, and it was necessary

to afford every possible facility to aid in the financing of such imports. Too high an acceptance rate would naturally have caused more or less uneasiness in the countries called upon to make advances against their exports to us, as the impression might have prevailed that we were pressed for funds. Prevailing rates of from 4 to 4½ per cent, therefore, have seemed to be entirely natural. When a normal basis of trade is again established between the principal countries of the world, the ability of this country to uphold the dollar in foreign markets will lie partly in the judgment displayed in adjusting our acceptance and bank rates. By that time, however, the English money market, as well as our own, will have resumed a more normal condition, so that the tendency in world currents of trade will be more clearly marked. The flow of money will be more noticeable and rates will have a greater tendency to establish themselves more automatically outside of the Federal Reserve System, thereby furnishing a surer basis for rate movement in the system.

In the development of the American acceptance market it is necessary to provide not only an outlet for acceptances but means of securing acceptances of bills in adequate volume, and in order to enable American banks and bankers to compete with British banking houses in financing the world's trade the combined power of American institutions whose acceptances can be made available in foreign markets to accept time bills must be large enough to meet all requirements, for otherwise should importers find that it is only occasionally that they can obtain dollar acceptance credits from American banks, due to the fact that these banks have reached the limit of acceptance liabilities provided by law, the importers will naturally return to the sterling acceptances which are available at all times in sufficient amounts to meet the demand.

In order to provide additional facilities for engaging in foreign transactions, it has been suggested to the Board that it may become advisable to amend section 13 of the act so as to permit the Federal Reserve Board to authorize any member bank having a combined capital and surplus of not less than $1,000,000 to accept draft or bills of exchange drawn upon it having not

more than six months' sight to run, exclusive of days of grace, which grow out of transactions involving the importation or exportation of goods, to an amount not exceeding 200 per cent of its capital and surplus, provided that no bank shall be permitted to accept for domestic transactions in an amount greater than 50 per cent of its capital and surplus or more than 50 per cent of its capital and surplus for the purpose of furnishing dollar exchange, but that any part of the aggregate amount which a bank may be authorized to accept may be used in accepting drafts or bills of exchange growing out of transactions involving the importation or exportation of goods.

By limiting the authority to accept in the larger amount proposed, to foreign transactions, there would be no possibility of the added acceptance privilege being used for the expansion of domestic credits, and the aggregate amount of acceptances outstanding would be controlled by our foreign trade requirements.

The Relations of the Federal Reserve Board with Foreign Banks.

Of considerable interest is the outline of the relations established by the Federal Reserve Bank of New York with foreign banks or government as shown in the following notes:

Bank of England.—This is an arrangement of a formal character, covered by written agreement, ratified by the directors of the two institutions, covering in detail the basis of the principal operations and making a close, effective, and complete agency. The business thus far transacted has been very limited, but under the agreement can be extended whenever the need arises. In June, 1917, the Federal Reserve Bank of New York, acting for itself and other Federal Reserve Banks, paid for account of certain English banks a loan of $52,500,000 with interest, maturing in New York, and accepted in return earmarked sovereigns of equivalent value in the Bank of England. During 1918 all but a small amount of this gold was either shipped to New York or furnished to the Treasury Department for the use of the United States Government or its allies in Europe.

Bank of France.—A somewhat limited agreement has been

effected with the Bank of France which it is hoped and expected by both institutions will soon ripen into a closer relationship.

Bank of Italy.—A mutual arrangement has been entered into between this institution and the Federal Reserve Bank of New York, whereby each has appointed the other its correspondent. No business has been or is likely to be transacted between the two institutions as long as arrangements for dealing with exchange problems growing out of the war are dealt with by the Governments of the two nations.

Bank of Japan.—Mutual arrangements, similar to those established with the Bank of Italy, have been concluded with the Bank of Japan, and although no active business has yet been transacted, it is hoped that, as in the case of other foreign agents and correspondents, a more active relationship will develop when international commerce resumes its natural course.

Philippine National Bank.—In May, 1917, mutual agency appointments were effected between the Philippine National Bank and this bank, but as the former has an active branch of its own in New York, the relationship, while ready for operations at any time, is likely to be largely of an emergency character.

De Nederlandsche Bank.—During 1918, at the request of the Treasury Department, this bank opened a current account with de Nederlandsche Bank for the purpose of receiving therein, for the use of the Treasury Department, the proceeds in guilders of wheat and other commodities.

Sveriges Riksbank and Norges Bank.—During 1918 accounts were also opened with the Sveriges Riksbank of Stockholm and the Norges Bank of Christiania for purposes analogous to those mentioned in the foregoing paragraph.

Argentina.—Early in 1918 an important arrangement was entered into between the United States and the Argentine Governments whereby the Federal Reserve Bank of New York and the Banco de la Nacion appointed each other as correspondents, and the former undertook to receive deposits not exceeding $100,000,000 exportable in gold coin after the proclamation of peace and the deposit of over $16,000,000 of gold coin then on deposit, earmarked, in New York and since then withdrawn and exported. The purpose of this agreement, which has proved

successful in operation, was to stabilize the badly demoralized exchange situation between the two countries.

Bolivia.—A somewhat similar agreement has been entered into between the Governments of the United States and of Bolivia whereby this bank agrees to receive not exceeding $5,000,000 on deposit which may be exported in gold six months after the proclamation of peace.

Peru.—Another similar agreement for the stabilizing of exchange has been entered into between the Governments of the United States and of Peru with this bank as banker, and with a maximum of $15,000,000 to be received on deposit subject to export at the termination of the present embargo. The agreement is not yet in actual operation pending the conclusion of certain minor details.

Indian Government.—A very comprehensive arrangement has been made between the United States and the British Government whereby the latter supplies the Federal Reserve Bank of New York, acting for all Federal Reserve Banks, with sufficient rupee exchange each month to enable importers in the United States to pay for necessary imports from India. Up to December 31 the Federal Reserve Bank of New York had received credits aggregating Rs. 192,500,000, of which Rs. 187,476,132 have been sold and transferred, with a most satisfactory result in the stabilization of exchange between the United States and the East.

Banks Organized for Transacting Foreign Business and Foreign Branches of Member Banks of the Federal Reserve System.

Section 25 provides for the establishment of *foreign branches by national banks,* which was formerly not permitted under American bank regulations:

Sec. 25. Any national banking association possessing a capital and surplus of $1,000,000 or more may file application with the Federal Reserve Board for permission to exercise, upon such conditions and under such regulations as may be prescribed by the said board, either or both of the following powers:

First. To establish branches in foreign countries or dependencies or insular possessions of the United States for the furtherance of the foreign commerce of the United States, and to act if required to do so as fiscal agents of the United States.

Second. To invest an amount not exceeding in the aggregate ten per centum of its paid-up capital stock and surplus in the stock of one or more banks or corporations chartered or incorporated under the laws of the United States or of any State thereof, and principally engaged in international or foreign banking, or banking in a dependency or insular possession of the United States either directly or through the agency, ownership, or control of local institutions in foreign countries, or in such dependencies or insular possessions.

Such application shall specify the name and capital of the banking association filing it, the powers applied for, and the place or places where the banking operations proposed are to be carried on. The Federal Reserve Board shall have power to approve or to reject such application in whole or in part if for any reason the granting of such application is deemed inexpedient, and shall also have power from time to time to increase or decrease the number of places where such banking operations may be carried on.

Every national banking association operating foreign branches shall be required to furnish information concerning the condition of such branches to the Comptroller of the Currency upon demand, and every member bank investing in the capital stock of banks or corporations described under subparagraphs two of the first paragraph of this section shall be required to furnish information concerning the condition of such banks or corporations to the Federal Reserve Board upon demand, and the Federal Reserve Board may order special examinations of the said branches, banks, or corporations at such time or times as it may deem best.

Before any national bank shall be permitted to purchase stock in such corporation the said corporation shall enter into an agreement or undertaking with the Federal Reserve Board to restrict its operations or conduct its business in such manner or under such limitations and restrictions as the said board may prescribe for the place or places wherein such business is to be

conducted. If at any time the Federal Reserve Board shall ascertain that the regulations prescribed by it are not being complied with, said board is hereby authorized and empowered to institute an investigation of the matter and to send for persons and papers, subpoena witnesses, and administer oaths in order to satisfy itself as to the actual nature of the transactions referred to. Should such investigation result in establishing the failure of the corporation in question, or of the national bank or banks which may be stockholders therein, to comply with the regulations laid down by the said Federal Reserve Board, such national banks may be required to dispose of stock holding in the said corporation upon reasonable notice.

Every such national banking association shall conduct the accounts of each foreign branch independently of the accounts of other foreign branches established by it and of its home office, and shall at the end of each fiscal period transfer to its general ledger the profit or loss accrued at each branch as a separate item.

Any director or other officer, agent, or employee of any member bank may, with the approval of the Federal Reserve Board, be a director or other officer, agent, or employee of any such bank or corporation above mentioned in the capital stock of which such member bank shall have invested as hereinbefore provided, without being subject to the provisions of section eight of the Act approved October fifteenth, nineteen hundred and fourteen, entitled "An Act to supplement existing laws against unlawful restraint and monopolies, and for other purposes."

The Annual Report of the Federal Reserve Board for 1918 has the following to say with regard to the activities of the member banks of the system and other banking corporations which became eligible to membership through the partial purchase of their stock by member banks:

Under section 25 of the Federal Reserve Act, the stock of American banking corporations, principally engaged in international or foreign banking, is made eligible for purchase by national banks having capital and surplus of $1,000,000 or more to an amount not exceeding 10 per cent of their capital and surplus, if such corporations enter into agreements with the Fed-

eral Reserve Board by means of which the Board can regulate their operations and keep generally informed as to their condition. Up to the present time five such institutions have filed agreements defining the oprations to be engaged in and relating to the amount and character of their investments, deposits, acceptances, and reserves. The corporations with which agreements have been made are:

American Foreign Banking Corporation, New York City; Mercantile Bank of the Americas New York City; First National Corporation, Boston, Mass.; Asia Banking Corporation, New York City; International Banking Corporation, New York City.

The branches and agencies located in foreign countries are subject to the laws of the country in which located, and in order to be able to compete with local banks, are permitted to follow in general the local banking practice.

The American Foreign Banking Corporation, the first to file an agreement with the Board, has acquired or established branches in the Canal Zone, Panama, and Haiti and the establishment of other branches has been authorized. These branches do a general banking business.

The Mercantile Bank of the Americas has expanded through the control of autonomous banks in several of the countries of South and Central America—Brazil, Peru, Venezuela, Nicaragua, and Colombia. Branches have been opened in Paris and Barcelona and agencies in five of the Latin American countries. In addition to receiving local deposits, making discounts, and dealing in foreign exchange, these affiliated institutions promote trade by bringing together buyers and sellers acting merely as intermediaries without assuming any market risks themselves. This bank was organized in 1915 by private banking firms in New York, but now numbers among its stockholders several of the large member banks of the Federal Reserve System.

The entire stock of the First National Corporation of Boston is owned by the First National Bank of that city. At the present time this corporation has no foreign branches, but intends to establish them as its business develops. An office, doing a purely discount business, is now maintained in New York City. During the past year this corporation has been of con-

siderable assistance in facilitating import and export trade with South America, the Far East, and West Indies, and also with European countries.

The Asia Banking Corporation was organized only recently, but plans to engage in a general international and foreign banking business in China, in the insular dependencies of the United States, and, ultimately, in Siberia. It contemplates opening branches in Shanghai, Harbin, Hankow, Tientsin, Peking, and Vladivostok. The stock of this corporation is owned largely by member banks.

The International Banking Corporation is the oldest of the banking corporations which have filed agreements with the Board having opened its first branch in Shanghai in 1902. Practically all of the capital stock of this corporation is owned by the National City Bank of New York. Its field of operation covers mainly the Orient—India, China, Japan, the Philippines, and the Malay Archipelago—Central America, and the West Indies, with a branch in London. It also has an office in San Francisco. It is engaged principally in financing the export and import trade centering at the place where its branches are located.

At the present time there are only two national banks having foreign branches—the National City Bank of New York and the First National Bank of Boston.

The National City Bank has 21 branches in South America, Cuba, Porto Rico, Russia, and Italy, and has also a representative in Copenhagen. The Board has recently authorized it to establish branches in Belgium, Switzerland, Portugal, and Spain. These banks, while branches of an American bank, perform the functions of local banks under authority of local law of the countries in which they are established, and transact a general banking business in their respective localities.

The First National Bank of Boston has one branch in Buenos Aires, opened in July, 1917. The facilities afforded by this branch have been devoted mainly to financing our trade in wool and hides with the Argentine.

Among the State member banks having foreign branches are the Guaranty Trust Co. of New York, the Equitable Trust Co. of New York, and the Farmers Loan and Trust Co. of New

York, all of which have offices in both England and France, and agencies throughout the world.

The Board takes this occasion to renew the recommendation made in its last annual report that section 25 of the Federal Reserve Act be amended so as to provide for the Federal incorporation of banking associations engaged solely in international and foreign banking, stock of which is to be owned by national banks and which will operate under the control of the Federal Reserve Banks.

The language used in section 25 seems to indicate the intention of Congress to permit such banks to be organized under the laws of the United States. Many national banks have become stockholders in banks which have been organized under State laws for the purpose of carrying on a foreign banking business, in accordance with the terms of section 25.

The agreements in favor of Federal incorporation are—

(*a*) The dual control exercise by the Federal Reserve Board and by the State Banking departments is liable at any time to cause embarrassment, or may operate to restrict the activities of the banking corporation.

(*b*) A banking corporation of this description being essentially a national enterprise whose stock is owned by national banks having been authorized by an act of Congress, would seem to be entitled to the benefits and protection of a Federal charter, which would undoubtedly be of great value in competing for business in foreign countries.

Attention is called also to the fact that other countries are now devoting particular attention to meeting their demands after the war, as regards financial facilities for trade, and the financing of large overseas contracts. A committee which was appointed sometime ago at the instance of the British Board of Trade, recently recommended the establishment of an institution having in view primary objects as follows:

(*a*) To afford advice and financial assistance to British commercial and industrial undertakings from their inception and generally to further the developments of British trade industry and commerce.

(*b*) To make advances for the enlargement of works and the extension of plant and for the amalgamation and co-ordina-

tion of works and business with a view to effecting economies in the cost of production.

(*c*) To render financial assistance in connection with transactions involving long periods of credit.

(*d*) To assist in obtaining orders from abroad for British manufacturers and traders and to grant financial facilities for the execution of such orders, especially when such orders are intended to be executed in the United Kingdom.

(*e*) To undertake credit operations and to draw and accept bills.

(*f*) To acquaint themselves with the conditions of trade and with the business requirements of all countries of the world and to enter into banking-agency arrangements in such countries with Colonial or British foreign banks or where necessary to open up branches and agencies in such countries.

(*g*) To establish, equip, and maintain information bureaus in close touch with the Department of Commercial Intelligence of the Board of Trade for furnishing generally with reliable data and information upon opening for trade, new contracts, State and other loans, and issue proposals, and generally upon all matters relating to foreign trade and business and to undertake the examination of industrial projects.

(*h*) To act as an agent for carrying through oversea commercial and financial transactions in which the British Government may be interested and to receive official recognition and assistance.

(*i*) To undertake trading operations and business on their own account or jointly with others either through the medium of syndicates or otherwise.

There does not seem to be anything to prevent American foreign banks from engaging in the operations above outlined with the possible exception of undertaking trading operations in business on their own account or jointly with others in such operations, through the medium of syndicates, but in the opinion of the Board all charters granted to banks engaging in such extensive operations should be uniform, and uniformity can best be assured through a Federal charter.

With regard to the progress made by American banks in establishing foreign branches and connections, and with regard

to the operations of the foreign banks in New York, the Annual Report for 1918 has the following to say:

Prior to the passage of the Federal Reserve Act, national banks were not permitted to establish branches or agencies abroad, although some of the State institutions had enjoyed this privilege. During the past four years some of the State institutions have extended their foreign branches. The National City Bank of New York, with its affiliated institutions the International Banking Corporation, has established many branches abroad, and two banking corporations organized in United States to carry on banking in foreign countries have established a large number of branches and relations, particularly with Latin-American countries.

It has been estimated that in July, 1914, not less than 150 foreign banking institutions maintained branches or agencies in London in addition to the home offices of many British banks doing business in all parts of the world. The closest kind of banking contact was thus maintained between London and foreign countries, and conduits were established through which money flowed into and out of London in accordance with the movements of trade and the relation of London rates to those prevailing in other centers. The number of such branches and agencies of foreign banks in New York and other American cities has increased considerably during the European War, but the limited nature of the business which the law of New York State permits branches or agencies or foreign institutions to transact, undoubtedly acts as a deterrent to the progress of the movement. A branch of a foreign bank may receive no deposits in New York State, and several foreign institutions, in order to obtain broader banking privileges than the New York law would permit their branches to exercise have acquired substantial ownership or control of American institutions conducting business in New York City. Among these may be mentioned the Royal Bank of Canada with its interest in the Merchants National Bank of New York; the Banca Commerciale Italiana of Milan with a branch of its own in New York and control of the Lincoln Trust Company of New York, and the Banco di Sconto del Circondario, owning jointly with the Guaranty Trust Company the Italian Discount & Trust Company of New York.

Many of these banks are large lenders of money and purchasers of bills in the United States. Many others are large buyers of bills drawn in foreign countries on American banks, the market for which in such countries is doubtless much facilitated by the existence of branches of local institutions in the United States through which such bills can be readily negotiated. While it may be said that the establishment of such branches of agencies of foreign banks in the United States constitutes competition of a certain kind with American banks, nevertheless the undoubted widening of banking contact between the United States and foreign countries which they bring, and the beneficial effect of such contact upon the development of dollar exchange and our discount market, would seem to justify a reconsideration in the situation from a broad point of view and possibly some liberalization of the operations which such institutions may conduct in New York State.

2. AMERICAN BANKS AND THEIR SERVICES TO EXPORTERS SINCE THE ENACTMENT OF THE FEDERAL RESERVE ACT.

Until the inauguration of the Federal Reserve system the service of American banks in the financing of foreign shipments was of necessity inadequate because of the limitations pointed out in the portion of this work dealing with their activities before the passing of the Act. The principal limitation was in their lack of an open discount market. The laws and regulations under which American banks had been operating were like a child's garment outgrown by the wearer. The enactment of the Federal Reserve Act remedied to a large extent the conditions which had prevailed, and it provided a machinery for dealing with any problems which the banks may face in connection with the needs of America's international commerce.

The Federal Reserve Act was passed at an unusually opportune moment, for the events of the world war, culminating with America's entry into the war on the side of the Allies and with the signing of the peace not only put a tremendous strain upon the banking mechanism and the industrial community in America which would have found both hopelessly inadequate under old conditions, but particularly the era of reconstruction

and re-adjustment which set in after the signing of the peace found America in so new a relation to foreign commerce in general that the reform in our international banking facilities, short of the ideal as it still is, must be described as literally providential.

American banks have been eager to take advantage of the opportunities suggested by the trend of the new regulations. A large number of them possessed foreign exchange departments even before the war. Some of them had installed foreign trade departments undertaking to furnish auxiliary services to their clients. But the stimulus of the Federal Reserve Act has led many additional banks to install foreign trade departments, and some have organized branches in foreign countries. Not only national banks, but trust companies and banking corporations which had operated under state charters maintain now elaborately equipped foreign trade departments which can co-operate with the manufacturer and the merchant in many helpful ways. Some of these institutions have published elaborate handbooks on various features of commercial banking, either of general character or pertaining to certain markets.

The question whether to have branches in foreign countries or to maintain working arrangements with banks already existing there is one that allows of discussion. There is no doubt that both of these methods have certain important advantages and some disadvantages. Among the banks which have organized branches abroad the National City Bank of New York is the foremost. The National City Bank, with which the International Banking Corporation is now affiliated, maintains 55 branches abroad—for both of these organizations. New branches are added continuously. The advocates of the establishment of foreign branches claim for this system the following advantages: continuity of responsibility, inviolability of trade secrets, the care of merchandise, reliable credit information.

The important point in solving this problem is to decide whether the branch of the American bank in a foreign country is to do banking business for America with that particular country or to engage in banking operations in that country. It seems that the advantage of a fully controlled branch is an obvious

one. Such a branch is likely to be more fully devoted to the interests of American clients than the native correspondent of an American bank. On the other hand the staff of a foreign branch of an American bank consists of Americans, who are foreigners in the place of their activity, and as a rule not in so intimate a relationship to the business people among whom they are cast as the staff and the management of a native bank that acts as correspondent for an American bank. But this is a distinction against the foreign bank branch which is likely to become less and less important with time, as the staff gains in experience and forms local connections. The training of managers and employees capable of being entrusted with the duty of attending to the financial interests of American clients in foreign commercial centers in a difficult one. The remarkable combination of the knowledege of American and foreign banking as applied to local foreign conditions cannot be either quickly taught or acquired.

There must be also in the home office a specially trained staff in close touch with each branch. There must be visits of special members of the home staff to the various branches. There must be return visits of foreign branch managers or other members of the staff to the home office. Such an organization must grow and learn, and in the course of time, with the proper selection of the material, and with a wise policy with regard to employing native help abroad (a very delicate problem) it is sure to measure up to requirements. Will that American swiftness of perception and of technique acquisition which excited the admiration of the world in the operations of American troops in Europe adequately overcome the handicap in competition with the laboriously trained experienced natives in foreign banking fields? This is a question which experience alone will answer, though the observation of the workings of existing foreign branches of American banks leads to expect an affirmative reply. They have done wonders in the brief time of their existence. Meanwhile the task of training the future managers and employees of foreign branches of American banks must be carried on with systematic and neverfailing zeal.

The National City Bank of New York, with its foreign

branches and their counter-organization at home, and with its foreign trade department and with the connections of that department (distinct from, though co-operating with the banking department), represents a most efficient and admirably equipped organization. It has set a pattern for the operation of American bank branches abroad. Its foreign Trade Department is most efficiently managed. The National City Bank has published a large number of valuable pamphlets dealing with various phases of foreign trade as related to banking. Its monthly bulletin on economic conditions is also highly regarded by those interested in the current topics of economic character.

The Guaranty Trust Company of New York is another New York bank which devotes special attention to foreign banking. It has its own banking offices in New York, London, Liverpool, Paris and Brussels. For Italy it maintains a working arrangement with the Italian Discount and Trust Company of New York, for Spain and Portugal it has an arrangement with the Mercantile Bank of Americas which has an office in Barcelona, and it has excellent connections throughout Latin America. For the Far East it has affiliated itself with the Asia Banking Corporation, while it also has a working arrangement with the Tata Industrial Bank of India for the Indian trade. Its foreign trade bureau is expertly managed. The Guaranty Trust Company has also issued a number of important booklets dealing with foreign trade problems.

Among the national banks catering for foreign trade we may mention the Irving National Bank and the National Bank of Commerce in New York, as institutions which have organized their foreign financing business with much wisdom and efficiency. The Irving National Bank has no branches of its own, but its affiliations abroad (based on mutual service) are very close and help it to render a world service to its clients. The publications of the Irving National Bank on trading with Latin America and with the Far East are classics and should be in the hands of every business man doing a foreign business.

The National Bank of Commerce, together with the First National Bank of Boston and in co-operation with the Comptoir National d'Escompte de Paris, has established the French-Amer-

ican Banking Corporation, placing at the disposal of its clients the service of native French bankers in a way which a mere correspondence affiliation could not do. It has paid a particularly close attention to the training of its staff in the business of foreign exchange and financing. Its foreign trade bureau is very efficient.

But even outside of New York, banks and trust companies in America have realized their great opportunity to serve their clients and to promote the interests of American trade abroad by utilizing to the fullest extent their new facilities under the Federal Reserve Act as called for by the needs of their clientele. We might mention in this connection the Central Trust Co. of Chicago and the First National Bank of Boston, though banks in almost every large city in the United States might be mentioned in this connection.

Certain banking corporations have been organized since 1914 specifically for foreign business. Among these may be mentioned the Mercantile Bank of the Americas particularly for the Latin-American fields, the Asia Banking Corporation for the Orient and the American Foreign Banking Corporation in New York.

Finally reference must be made to the branches in America of foreign banks which are especially equipped to deal with imports from and exports to the countries which form the special sphere of their activities.

In considering the service of American banks to-day it may be said that at the present time the American exporter is in no way behind his competitors in foreign countries in regard to facilities under national auspices which are open to him. America has become a creditor nation, and the task of providing for commercial credits in America's foreign trade will need all the support of a well equipped banking organization. Even beyond mere commercial credits, the prospect of American investments in foreign enterprises and in national and municipal issues of foreign countries opens up a new and a vastly increased field of usefulness for American banks. This has been fully recognized by American bankers, and as a symptom of this attitude it may be mentioned that the Investment Bankers Association

of America has organized a committee on foreign securities, composed of America's foremost financiers, the purpose of which is to study ways and means for the furtherance and for the protection (if this should ever be necessary) of the interests of American investors in foreign securities.

The existing improvements in the service of American banks confronts the American business men with a situation which has in it somewhat of the "embarrassment of riches," to translate a French phrase denoting the difficulty of choosing from among superabundant offerings. What should an American business man expect from a bank which caters to his requirements in foreign trade financing, and how can he set in motion the machinery of the bank chosen by him for his own particular use?

The bank chosen by the American business man for the various forms of banking service connected with the export and the import of merchandise and for the financing of transactions involved therein, must furnish trade advice which it can give better than he can secure for himself.

The financing of foreign trade is primarily the problem of adjusting international credits, in order that shipments of actual funds between countries may be reduced to a minimum. The bank equipped to accomplish this task most efficiently, most expeditiously and at the lowest cost is rendering to its customers engaged in foreign trade a maximum of genuine service. All other services which a bank may render are secondary to this prime consideration.

Efficiency in handling foreign transactions is dependent upon adequate foreign connections and a thoroughly trained staff. The business man must be assured that the bank which he uses for his foreign trade requirements has the best connections in the areas where he seeks his markets, with that intimate knowledge of local conditions which it is to difficult for a foreign bank to acquire. The second requisite is a thoroughly trained staff. The bank must have a foreign department officered with men not only familiar with the technicalities of foreign exchange and financial and commercial conditions abroad, but with the whole fabric of American industrial life as it is con-

cerned in foreign trade. Under their direction must be a staff not only well trained on the technical side, but developed toward the end of giving each customer and each transaction intelligent personal service essential to the handling of the complicated transactions arising in foreign trade.

From the standpoint of most users of commercial banking accommodations, the operations of major interest are the financing of exports and imports. Neither manufacturers nor exporters, here or abroad, are in a position to go to any large extent into the extension of credits. Their business is not to loan money on interest but to turn it over. The business of a bank specializing in foreign trade is the loaning of funds and credit for foreign trade operations. This is done either by discounting bills of exchange or by the use of the bank credit, the latter method being in increasing favor in the American business world.

The bank selected by the American business man for his foreign trade requirements must do a large business in financing transactions by the acceptance method. In addition to the financing of exports and imports in the strict sense it must deal largely in foreign exchange arising out of all the phases of modern international life, as exchange arising from the export and the import of securities, loans on the international money market and miscellaneous operations, such as the issuance of travelers' checks and letters of credit, and all kinds of remittances abroad. In this connection it should possess a direct drawing system, by which interior banks may arrange to draw direct on its branches or correspondents abroad, thus shortening the time required to complete transactions.

The most satisfactory method by which to establish bank relationships for foreign trade is to open an account, arranging for a regular "line" of credit for use in connection with foreign trade operations. In order to do this, it is not necessary for the exporter or the importer to be a customer of the bank for general banking business, and separate "lines" may be opened for export discounts and import credits. The more advantageous method, however, is to maintain in the same bank accounts both for domestic and foreign business. This is especially desir-

able since expansion of business operations to meet a larger market will usually involve additional lines of credit for domestic use. A domestic or foreign depositor who only occasionally may need facilities for financing foreign business can do it on the strength of his regular domestic "line" of credit. But if a large foreign business is contemplated, it then becomes necessary to open a regular "line" for foreign business exclusively.

Opening an account both for domestic and foreign business is, however, but one method by which a New York bank may be of service to firms engaged in foreign trade. Many firms and corporations located inland, who do their banking business for domestic purposes in the cities where they are located, carry New York balances to use in making settlements in connection with foreign business. This represents a saving in interest charges. Other firms, on the other hand, may find it advisable to make their foreign connections not directly but through their local banks. Not only should a bank specializing in foreign trade offer its services to these classes of firms, but in addition also to these customers who do not establish deposit relations but who utilize only its collection and discount facilities.

A bank deals in money and credits as a merchant deals in goods, and firms engaged in foreign trade should seek that bank which gives them at the lowest cost the best financial service for that purpose. No secondary considerations should lead either the bank or the client to lose sight of this fundamental fact. At the same time there are many other services which a bank may render to its customer in connection with foreign trade without adding to the cost of the financial service rendered. One of these services is in the furnishing of credit reports. Every bank fostering foreign connections should develop and keep up-to-date this branch of its service.

With regard to foreign trade service, while a number of banks maintain elaborate foreign bureaus, a bank is not and can not be equipped to furnish advice on foreign trade matters beyond a certain point. It should maintain a well equipped library, a statistical department and facilities for conveying trade opportunities to the knowledge of its clients as communicated by its foreign branches or connections, but it goes beyond its scope

if it attempts to make itself an adjunct of a manufacturer's sales department or compete with the functions of official or associational trade promotion.

Under the impetus of the Federal Reserve Act American banks have made an immense progress in a comparatively short time, and an American exporter will have no difficulty in securing a desirable banking connection for his foreign trade requirements that will adequately meet all the foregoing considerations.

CHAPTER XVII.

The Problem of Foreign Credits (concluded).

E. THE USE OF CREDIT INSTRUMENTS IN AMERICAN PRACTICE.

1. *Drafts and Credits.*

We dealt in Chapter XIV with the use of credit instruments in German and in British banking practice. In Chapter XV we reviewed the facilities of American banks for negotiating drafts for American shippers under the restrictions of American banking regulations which prevailed before the enactment of the Federal Reserve Act. In Chapter XVI we discussed the effects of the Federal Reserve System upon the operations of American banks and the development of their service to American exporters under the broader regulations of the Federal Reserve Act and its various amendments. We have not yet reached by any means the ideal stage of banking practice in dealing with credit instruments. But the Act provides for a supervision of banking practice and for the introduction of desired improvements, and very great progress has certainly been made, with every prospect of the perfecting of a fully adequate mechanism, adapted to the needs of America's trade with the world, in the course of time.

Our present consideration will be given to a review of the various credit instruments which are used in the American banking practice to-day. Of these the negotiation of drafts, documentary (with shipping documents attached) and "clean" (not attached to shipping documents) and the opening of commercial credits with the bank upon the initiative of the buyer, either in the shape of "confirmed" credit or an authority to negotiate drafts, have been already described from the point of view of the European practice and of the American pre-war practice. There is no difference in principle between any of these practices and the present day practice, though there are the natural minor

differences of rates and charges, and principally in the scope of operations by the banks in dealing with these instruments. It will suffice, therefore, to review briefly the principal characteristics of these credit instruments. We have, however, before us two important credit instruments, the bank acceptance and the trade acceptance, which are new to American banking practice. The bank acceptance plays an important part in the financing of foreign shipments and this we will consider at length. The trade acceptance is limited to domestic usage.

The documentary draft discounted by the bank. This is a draft to which the shipping documents are attached. The exporter has sold certain goods to a customer abroad whose credit standing he had investigated and found satisfactory. When shipment is made, he draws a draft on his customer, attaching to it the proper shipping documents, generally the original bill of lading with any negotiable copy; the marine and war risk insurance certificate, the certificate of origin and other certificates which the laws of the country of destination may require, invoice, etc.

Drafts may be either *sight drafts,* likewise called *demand drafts,* being payable upon presentation to drawee by the branch or correspondent abroad of the bank in America to which the drawer turns over the draft for collection or for discount; or they may be *time drafts,* payable a certain period after presentation, usually at 60, 90 or 120 days.

Time drafts may be drawn either a certain period after sight or after the date of the draft. The draft on arrival at destination is presented to the drawee for acceptance. When the draft is drawn in dollars, it should bear the note "payable at bank's drawing rate on day of payment for..... drafts on New York."

When the draft is presented to the bank for collection, the drawer must wait for the collection to be effected and receives the proceeds in due course. But if he wishes to use the money at the time of shipment, he may turn over the draft to the bank for discount. Here the bank will undertake to discount the draft when the credit standing of the drawer warrants it. The bank loans the money to the drawer while waiting for the proceeds. Naturally the discounting is done with recourse to the drawer,

in other words if the drawee fails to honor the draft, the drawer must return the amount loaned by the bank on the draft with accrued interest and expenses.

The branch of the American bank or its correspondent presents the draft, whether taken for collection or for discounting, to the drawee. The shipping documents attached to it are as a rule marked "to order" (where foreign regulations do not forbid this) and are surrendered to the drawee upon compliance with instructions issued by the shipper, which means generally that in the case of sight drafts the documents placing the drawee in possession of the shipment are surrendered after payment, and in the case of time drafts after "acceptance." The acceptance is effected by the drawee writing or stamping the word "Accepted" with his signature and the date across the face of the draft. The accepted draft is held until maturity and then at maturity it operates as a sight draft. If the amount is drawn in dollars, the draft bears the note "payable at the bank's drawing rate on date of payment for.....days (or for sight) drafts on New York." The drawee must then procure a draft for New York funds. According to country and to the usance of drafts a charge of 1-1/8 to 3 per cent is made for discounting and interest is added for the time between the payment of the discounted draft to the drawer and the arrival of the proceeds in New York, as well as revenue stamp charges on bills of exchange abroad.

The charge for collecting drafts is much smaller, generally running from 1/8 to 1%. The proceeds may be cabled, if the drawer so instructs the bank. The drawer may also make provisions for protesting the drafts in case of non-payment.

Drafts accompanied by documents are referred to as *D.A. drafts*, if the documents are to be surrendered against acceptance, and *D.P.* if they are to be surrendered against payment.

It is highly important in every case to give complete instructions to the bank with regard to various emergencies. In the case of D.A. drafts it is usual to instruct that the draft after acceptance be held until maturity and payment by the bank at the point of destination; only rarely the drawer instructs that the draft be returned to the bank in America. Instructions as to how to proceed if the draft is not accepted and what to do

with the documents in that case are exceedingly important. It might be well to instruct the bank to notify someone in the case of non-payment, which wise precaution sometimes can save much loss. The exporter should have a clear understanding with his customer as to the payment of commissions, exchange costs, etc.

The clean draft discounted by the bank. The proceeding is the same as in the foregoing case, only the element of security, as far as the bank is concerned, is lessened by the absence of documents giving control over the shipment. The discounting of such drafts is based entirely upon the solvency of the exporter.

Confirmed credits. The foreign customer may arrange with a bank or a business house in United States to confirm his orders and to accept drafts of the exporter covering his purchase.

The confirmed credit is called an irrevocable credit, because it cannot be cancelled without the consent of the vendor. Credits are accompanied by instructions with regard to the vendor's acts prerequisite to payment, which the bank must see that the vendor effects correctly. Payment is generally made against the surrender by the exporter of a full set of shipping documents within the expiration limit of the confirmed credit or before the cancellation of the unconfirmed credit.

Authority to negotiate with or without recourse. Occasionally the customer arranges with his bank to instruct an American bank to negotiate the exporter's drafts up to a specified amount either with recourse (when the vendor's liability is maintained until the draft is met) or without recourse. The former proceeding is naturally permissible only when the customer is a concern of the highest standing and enjoys the utmost confidence of the vendor.

Other forms of credit established by foreign customers for the payment of their purchases in America are the foreign bank's credit or the buyer's export credit.

A foreign bank occasionally issues a credit on itself in favor of the American shipper authorizing him to draw on it to a certain amount. It advises the shipper the name of the American bank with whom the draft may be negotiated against the sur-

render of shipping documents. The shipper's draft may be at sight or a time draft.

Or the customer may arrange with his bank to open an export credit in America, authorizing the bank to pay the shipper a certain amount of money against the presentation of the documents covering a certain shipment or to accept his draft.

Revolving credits are customary where the relations between the vendor and the buyer are currently continuous. The buyer, the vendor and the bank agree on the conditions under which the credit after being used once may become again available, without the necessity of exchange of cables or correspondence between the contracting party. In its "Handbook of Finance and Trade with South America" the National City Bank cites three classes of revolving credit:

"A" in foreign country opens a credit in favor of "B" in this country up to say $20,000, the conditions of which permit "B" to draw, as shipments are made, upon bank through which credit is made available, the said bank honoring such drafts when accompanied by documents covering a specific shipment. Upon liquidation by "A" of the amount or amounts drawn by "B," the amount or amounts so liquidated again become available to be drawn against by "B" under the original conditions. Should the total amount of the credit become exhausted, no further drawings thereunder may be made by "B" until liquidation by "A" of all or of a portion of the drafts drawn by "B." This explains the revolving feature of this credit, inasmuch as the full credit, or such portions thereof as have been liquidated by "A," again become automatically available to be drawn against by "B."

The second class of credit under this revolving form permits "B," upon "A's" instructions to bank, to draw a specified sum in one draft. Upon maturity and payment of this draft by "A," the same amount again becomes available to be drawn against by "B" upon the same conditions which governed the original drawing.

Under the third class of revolving credit, "A" in a foreign country permits "B" in this country to draw in one draft for the full amount involved, whereupon the credit again becomes automatically available for a similar amount and so on indefi-

nitely until the expiration of the time limit specified in the original instructions.

This last form of credit is limited as to time, but as to the amounts drawn thereunder it is only limited to the units in which the drafts may be drawn, no limit being set as to the maximum amount which may be drawn thereunder.

It is also possible to limit drawings to a certain amount during a special period, to be drawn in one or in various drafts, the original amount again becoming available at the expiration of each such periods.

The revolving credit is very elastic in its application and may be made to serve any reasonable requirements along the lines suggested in the illustrations.

Furthermore, it should be noted that the commission charged by the bank is calculated not upon the full amount for which credit is originally opened, but upon the amount or amounts as availed of thereunder.

2. *Specimens of Drafts and Credits.*

1. Blank draft furnished by the International Banking Corporation. (Interest is provided for until approximate due date of remittance in London or New York.)

Drawn under —— No.——; dated———

———, ———19—

———— ————

At———days after sight of this first of exchange (second being unpaid) pay to the order of———— ———the sum of———, with interest added thereto at —— per cent per annum, from date hereof to approximate due date of remittance in London or New York. Payable at the current drawing rate for the International Banking Corporation's drafts at sight on London or New York. Value received.

To———— ————,

———— ————.

2. Ninety days' draft on France for $1,000. Draft drawn at the rate of 522½, making 5,225 francs equal to $1,000. Draft

is drawn to order of drawers and must be indorsed on back: "Pay to the order of ———— ————. (Signed) Chas. Brown & Co."

Exchange for
Fcs. 5225. Chicago, August 8, 1919.

Ninety days after sight of this first of exchange (second of the same tenor and date unpaid) pay to the order of ourselves Francs Fifty-two hundred and twenty-five no/100.

Value received and charge same to account.

Chas. Brown & Co.

To John Smith & Co.,
No. 3274. Havre, France.

3. Sterling draft on South America, drawn for £1,000 at 3 days' sight. Payment is to be made in Argentine equivalent which will purchase a 90 days' sight bill on London; draft is drawn to order of bank.

£1,000. New York, August 28, 1912.

At three days' sight of this first of exchange (second unpaid) pay to the order of the ———— ———— Bank, the sum of One thousand pounds sterling, payable in legal currency at the bank's drawing rate on day of payment for ninety days' sight bills on London. Value received in goods per S. S. Amazon.

Johnson & Co.

To Jose Gonzalez,
Buenos Aires.
No. 7432.

4. Draft for $1,000 drawn at 60 days' sight in American dollars, payment to be made in Argentine equivalent for sight bills on New York at the bank's drawing rate on day of payment.

$1,000 U. S. Currency.
Newark, N. J., August 27, 1912.

At sixty days' sight of this first of exchange (second unpaid) pay to the order of ———— ————, the sum of One thousand dollars United States gold, payable in legal currency at the bank's drawing rate on day of payment for sight bills on New York. Value received in goods per S. S. Manchester.

James Smith & Bro.

To Juan Fernandez e Hijo,
Bahia Blanca, Argentina.
No. 612.

5. Thirty days' sight draft for $1,000 United States gold on Brazil providing for payment in Brazilian currency for sight drafts on New York.

Exchange for $1,000 U. S.

Yonkers, N. Y., September 5, 1919.

Thirty days after sight of this first of exchange (second unpaid) pay to the order of ——— ——— Bank, One thousand dollars United States gold. Payable in Brazilian currency at bankers' rate for sight drafts on New York.

Value received, which place to account of shipment per S. S. Manitoba.

Albert Brown & Co.

To Pedro de Gama,
Santos, Brazil.

No. 2525.

6. Sight draft on Argentina for $1,000 gold, payable in Argentine gold at bankers' rate for sight drafts on New York.

No. 17533.

Baltimore, Md., January 3, 1919.

Exchange for $1,000.

At sight of this first of exchange (second unpaid) pay to the order of ——— ——— Bank, the equivalent of One thousand dollars United States gold (payable in Argentine gold at bankers' rate for sight drafts on New York). Value received, and charge the same to account of shipment per S. S. Mexico.

Johnson & Robinson.

To Jose Lopez,
Mendoza, Argentina.

7. Ninety days' draft for $1,000 United States gold on Montevido.

Exchange for $1,000 U. S.

Washington, D. C., January 6, 1919.

Ninety days after sight of this first of exchange (second unpaid) pay to the order of ——— ——— Bank, One thousand dollars United States gold. Payable in gold currency at bankers' rate for sight drafts on New York.

Value received, which place to account of shipment per S. S. Meridian.

Smith & Smith.

To Silva & Cia.,
Montevideo, Uruguay.

No. 5515.

8. Draft on Buenos Aires in dollars, figuring to bring the drawer, when discounted, an equivalent of about $1,000.

$1,027.50.

Chicago, Ill., July 2, 1910.

At 90 days after sight of this first of exchange (second unpaid) pay to the order of the Anglo-South American Bank (Ltd.), the sum of One thousand twenty-seven 50/100 dollars United States gold, payable in legal currency at the bank's drawing rate on day of payment for sight bills on New York. Value received in goods per S. S. Peru.

Brown & Greene.

To Aviles & Cia.,
Buenos Aires.

The invoice in this case amounted to $1,000; 150 days' interest (30 days each way for voyage and 90 days' time of draft) was added, at 6 per cent per annum, and also a collecting commission of one-fourth of 1 per cent. Discounted at the usual rate of 2½ per cent, it will yield $1,001.82.

9. Draft in sterling figured to bring the drawer after discounting an equivalent of about $1,000.

£214-1-3.

Cincinnati, Ohio, July 7, 1912.

At 90 days after sight of this first of exchange (second unpaid) pay to the order of the Anglo-South American Bank the sum of Two hundred fourteen pounds one shilling and three pence, payable in legal currency at the bank's drawing rate on day of payment for 90 days' sight bills on London. Value received per S. S. Mongolia.

Robert Lee & Co.

To Gomez & Gomez,
Buenos Aires.

Adding, as in specimen No. 8, 150 days' interest at 6 per cent to the amount of invoice and collection charges of one-fourth of 1 per cent, the dollars are converted into sterling at $4.80 to 1 pound sterling. The banker's charge will be 3½ per cent, but by using $4.80 as basis of conversion instead of $4.85 (the pre-war demand rate on London) the shipper charges an extra 1 per cent for the privilege of settling at the 90 days' sight rate. This draft will yield, when discounted at 3½ per cent, $1,001.81.

10. *Specimen of Banker's authority to negotiate drafts without recourse.*

IRVING NATIONAL BANK
New York

Foreign Department

January 2nd, 1919

In replying please quote
Export Credit

ADVICE 600/100.

F. C. Supply Co.,
1 Broadway,
New York City.

Gentlemen:

We are instructed by the Japanese Bank to negotiate as offered, without recourse, your documentary bills at ninety days sight on Reizo Matsuoka, Kobe, to the extent of NINE HUNDRED AND 00/000 DOLLARS ($900.00) at one time outstanding, for invoice cost of goods shipped to that port.

The bills must be accompanied by a full set of Bills of Lading (Express Company's Bills of Lading not acceptable) and Insurance Certificates covering marine insurance and also war risk insurance, made out to order and endorsed in blank together with invoice covering merchandise shipped from America to Kobe, and shipping documents to be delivered against payment of the relative drafts.

The drafts must be drawn to order, endorsed in blank and be marked:

"Drawn under authorization of the Japanese Bank, No. 100" and must bear the following clause:

"Payable with interest added at the rate of 6% per annum from date of draft until approximate arrival of cover in New York."

This authorization is subject to cancellation and/or modification by us at any time.

Kindly hand in this letter with your drafts in order that the amounts of the same may be endorsed on the back hereof.

Yours very truly,

PRO FORMA

Vice President.

(Courtesy of Irving National Bank.)

11. *Specimen of Export Credit.*

IRVING NATIONAL BANK OF NEW YORK

New York, **June 18th, 1919**

EXPORT CREDIT No. 191

EXPIRING **November 30, 1919**

Messrs. John Doe & Company
New York City.

Gentlemen:—

We are informed that you will draw upon us for account of.....**Jose Alfau**.....at.....**sight**.....to the extent of **Ten Thousand and 00/100 Dollars ($10,000.00)**.....covering **a shipment of merchandise.**

Documents (complete sets unless otherwise stated) comprising Bills of Lading issued to.....**order, endorsed in blank**..... Invoices

Insurance policies covering marine and war risk.
to be delivered to us against **payment.**

Insurance **as above.**

This letter is for your guidance in preparing documents and conveys no engagement on the part of this Bank as we have no instructions to confirm the Credit.

Bills of Lading issued by Forwarding Agents will not be accepted unless specifically authorized herein and any modifications of the terms of the credit must be in writing over authorized signatures of this Bank.

Drawings must clearly specify the number of this Credit.

Yours very truly,
IRVING NATIONAL BANK NEW YORK

_____

Vice President

_____

Manager Foreign Department

Entered.....

(Courtesy of Irving National Bank.)

12. *Specimen of Import Letter of Credit.*

IMPORT LETTER OF CREDIT (DOLLARS)

Credit No. **134567**
$100,000—U.S.C.

GUARANTY TRUST COMPANY OF NEW YORK
Foreign Department

New York, **February 11, 1919**

John Doe & Company,
Yokohama, Japan.

Dear Sirs:

At the request and for the account of.....**Johnson Crawford & Company, New York**.....we hereby authorize you to value on

Guaranty Trust Company of New York, New York

at.....**Four (4) Months sight**.....for the sum not exceeding a total of.....**One hundred thousand dollars ($100,000)**.....
accompanied by commercial invoice, consular invoice, bills of lading **Marine and war-risk, insurance certificates**
representing.....**cost, insurance and freight**.....shipment of..... **Raw Silk from Yokohama, Japan, to New York**
Insurance.....**Marine and war-risk insurance to be effected by the shippers**

Bills of lading for such shipments must be drawn to the order of.....**Guaranty Trust Company of New York, New York**

A copy of the consular invoice and one bill of lading must be sent by the bank negotiating drafts, direct to Guaranty Trust Company of New York, **New York.**

The amount of each draft negotiated must be endorsed hereon.

We hereby agree with bona fide holders that all drafts drawn by vitrue of this Credit, and in accordance with the above stipulated terms, shall meet with due honor upon presentation at the Guaranty Trust Company of New York, New York, if drawn and negotiated to..... **May 31, 1919.**

GUARANTY TRUST COMPANY OF NEW YORK

N. B. Drafts drawn under this Credit must bear the clause "drawn under Letter of Credit No. **134567, Dated February 11, 1919.**"

13. *Specimen of a Revocable Export Credit.*

GUARANTY TRUST COMPANY OF NEW YORK.

New York, February 26, 1919

To The United States Mercantile Co.,
140 Broadway, New York City.

EXPORT CREDIT
No. Ex-60001

Dear Sirs:

In accordance with cable instructions received from.....**Banco Mercantil Americano de Colombia, Bogota**.....we open a revocable credit in your favor for account of.....**The South American Import Company, Bogota, Colombia**.....amount **$50,000.00 (Fifty thousand Dollars)** covering shipment of.....**coffee cleaning machinery from New York to Barranquilla, Colombia.**

Drafts under this Letter of Credit are to be drawn at..... sight on.....**us**.....and are to be accompanied by a set of Shipping Documents which must meet with our approval, consisting of:

Shipper's Invoices.....

Consular invoices if such documents are required in connection with this shipment.

Marine and War Risk insurance policies.....

Full set of ocean steamer Bills of Lading.....**made out to order and endorsed in blank, or to the order of the Banco Mercantil Americano de Colombia.**

It must be understood that payments under this Credit will only be made provided the goods are actually on board or loading on the Vessel named in the B/L.

If Government regulations restrict the issue of order Bills of Lading, please communicate with us and we will advise you in the premises.

Marine insurance should cover from Warehouse to Warehouse, and not less than ten days after arrival, and also include deviation clause, craft and lighter clause, negligence and/or latent defect clause. Policies reading **Free of Particular Average** completely, must not be tendered without prior arrangement with us.

This Letter of Credit is issued subject to all regulations and enactments of the United States Government and its Allies and to any proclamations of the President governing export shipments.

The documents should be presented whenever possible in time to be forwarded on the steamer carrying the merchandise.

This Letter of Credit expires.....**June 30, 1919**.....unless sooner revoked.

If you are unable to comply with the terms as indicated above, please communicate with us promptly, and oblige,

Yours respectfully,
GUARANTY TRUST COMPANY OF NEW YORK

This is a form of an export credit, opened by a foreign buyer through the Guaranty Trust Company of New York, in favor of a manufacturer, exporter, or shipper in the United States.

The specimen shown is *a revocable* credit, which means that although a date of expiration is placed on the credit, it is, nevertheless, subject to cancellation at any time.

15. *Specimen of an Irrevocable Export Credit.*

GUARANTY TRUST COMPANY OF NEW YORK.

To The American Export Association,
140 Broadway, New York City.

EXPORT CREDIT
No. C-60000

Dear Sirs:

In accordance with.....**cable**.....instructions received from .....**Banco Mercantil Americano del Peru, Lima, Peru**..... we open an irrevocable credit in your favor for account of.....**The South American Import Company, Lima, Peru**.....Amount **$100,000.00**..... .....**(One hundred thousand**.....Dollars) covering shipment of **general merchandise from New York to Callao, Peru.**

Drafts under this Letter of Credit are to be drawn at..... sight on.....us.....and are to be accompanied by a set of Shipping Documents which must meet with our approval, consisting of:

Shipper's invoices.....

Consular invoices if such documents are required in connection with this shipment.

Marine and War Risk insurance policies.....

Full set of ocean steamer Bills of Lading.....**made out to order and endorsed in blank, or to the order of the Banco Mercantil Americano del Peru.**

This Letter of Credit is Valid only upon there having been issued an appropriate Export License, covering the transaction.

It must be understood that payments under this Credit will only be made provided the goods are actually on board or loading on the Vessel named in the B/L.

If Government regulations restrict the issue of order Bills of Lading, please communicate with us and we will advise you in the premises.

Marine insurance should cover from Warehouse to Warehouse, and not less than ten days after arrival, and also include deviation clause, craft and lighter clause, negligence and/or latent defect clause. Policies reading **Free of Particular Average** completely, must not be tendered without prior arrangement with us.

This Letter of Credit is issued subject to all regulations and enactments of the United States Government and its Allies and to any proclamations of the President governing export shipments.

The documents should be presented **whenever possible** in time to be forwarded on the steamer carrying the merchandise.

This Letter of Credit expires.....**June 30,1919**.....

If you are unable to comply with the terms as indicated above, please communicate with us promptly, and oblige,

Yours respectfully,

GUARANTY TRUST COMPANY OF NEW YORK

This credit differs from the revocable export credit,in that, as an *irrevocable* credit, it cannot be cancelled prior to the date specified in the credit, without the consent of the party in whose favor it is issued.

(Courtesy of Guaranty Trust Company of New York.)

3. Bank Acceptance Practice.

Bank acceptances have been in use for centuries in the financial centers of Europe. They are new credit instruments in American usage, and in the few years of their use they have proved so valuable an adjunct to the financial mechanism of the nation that the rapid extension of their use and the perfecting of the conditions favoring such expansion (as a broad acceptance discount market and the removal of certain still existing restrictions) can be confidently looked forward to as the natural development of the system.

The term acceptance is given to a draft or bill of exchange drawn to order, for a definite sum of money, payable at a definite time after the date of the draft or after its presentation to the drawee, the obligation to pay having been "accepted" by the drawee, by means of an acknowledgment written or stamped across the face of the instrument and signed by him. This acknowledgment constitutes the agreement of the drawee to pay the draft at maturity in accordance with its tenor, without any qualifying conditions. Such an accepted draft is negotiable.

The vendor of merchandise draws upon the buyer for the price of the merchandise sold to him. The buyer accepts the draft. This constitutes a "trade acceptance." But the buyer may arrange with a bank that the vendor shall draw on that bank and the bank shall accept the draft for the buyer's account. This draft becomes a *bank acceptance.* And indeed, the Federal Reserve Board defines a bank acceptance as "a draft or bill of exchange of which the acceptor is a bank or trust company, or a firm, person, company, or corporation engaged in the business of granting bankers' acceptance credits."

Such instruments offer an excellent means of investment. The responsibility for their payment is based upon the credit standing of financially solvent banking institutions. The acceptances are covered by bankers' clients either by deposit of clearing house funds one day prior to maturity, or deposit of cash or check of the Federal Reserve Bank on the day of maturity, or a debit to the client's account on the day of maturity against funds cleared.

Section 13 of the Federal Reserve Act, as amended, pro-

vides as follows with regard to the power of national banks as members of the Federal Reserve System to accept drafts or bills of exchange:

"Any member bank may accept drafts or bills of exchange drawn upon it having not more than six months' sight to run, exclusive of days of grace,

"I. Which grow out of transactions involving the importation or exportation of goods; or

"II. Which grow out of transactions involving the domestic shipment of goods provided shipping documents conveying or securing title are attached at the time of acceptance; or

"III. Which are secured at the time of acceptance by a warehouse receipt or other such documents conveying a securing title covering readily marketable staples.

"No member bank shall accept, whether in a foreign or domestic transaction, for any *one* person, company, firm, or corporation to an amount equal at any time in the aggregate to more than ten per centum of its paid-up and unimpaired capital stock and surplus, unless the bank is secured either by attached documents or by some other actual security growing out of the same transaction as the acceptance; and

"No bank shall accept such bills to an amount equal at any time in the aggregate to more than *one-half* of its paid-up and unimpaired capital stock and surplus:

"Provided, however, that the Federal Reserve Board, under such general regulations as it may prescribe, which shall apply to all banks alike regardless of the amount of capital stock and surplus, may authorize any member bank to accept such bills to an amount not exceeding at any time in the aggregate one hundred per centum of its paid-up and unimpaired capital stock and surplus:

"Provided, further, that the aggregate of acceptances growing out of domestic transactions shall in no event exceed fifty per centum of such capital stock and surplus.

"IV. Any member bank may accept drafts or bills of exchange drawn upon it having not more than three months' sight to run, exclusive of days of grace, drawn under regulations to be prescribed by the Federal Reserve Board by banks or bankers in foreign countries or dependencies or insular possessions of

the United States for the purpose of furnishing dollar exchange as required by the usages of trade in the respective countries, dependencies, or insular possessions.

"Provided, however, that no member bank shall accept such drafts or bills of exchange referred to in this paragraph for any one bank to an amount exceeding in the aggregate ten per centum of the paid-up and unimpaired capital and surplus of the accepting bank unless the draft or bill of exchange is accompanied by documents conveying or securing title or by some other adequate security:

"Provided, further, that no member bank shall accept such drafts or bills in an amount exceeding at any time the aggregate of one-half of its paid-up and unimpaired capital and surplus."

The National City Bank in its booklet on "Bank Acceptances" gives the following illustrations of the use of bank acceptances arising out of a transaction involving the importation or the exportation of goods, acceptances arising out of domestic shipment transactions, acceptances which are secured by warehoused goods and drafts drawn for the purpose of providing dollar exchange.

An Importation Acceptance.

An importer desires to purchase some raw silk in Japan. He goes to his bank and explains the transaction. His credit standing being satisfactory, his bank issues, at his request, a commercial credit. This credit authorizes the Japanese exporter to draw on the bank for the value of the silk which the importer is purchasing. The credit limits the total amount of drafts which may be drawn under it, states that they must be drawn and negotiated on or before a certain date, and gives the usance; that is, that the drafts must mature thirty, sixty or ninety days, or whatever the period may be, after sight. It also stipulates what documents (shipping, insurance, etc.) must be attached to the drafts.

Since the importer wants to get his silk, there is not, ordinarily, time to wait until the credit has reached the exporter through the mails. Usually, therefore, the information is cabled through a bank located in the vicinity of the exporter.

Upon receipt of this advice the exporter prepares his raw silk for shipment. As soon as he is in possession of the ocean bill of lading and other necessary documents he draws a draft on the bank in this country issuing the credit for the value of the silk, the draft having a maturity in accordance with the terms of the credit—let us say ninety days after sight. To the draft he attaches the documents referred to. He then takes the draft to his local bank, which purchases the draft at the current rate of exchange for ninety-day-sight dollar bills.

The shipping and other documents are all made out or indorsed so as to give the bank purchasing the draft title to the goods.

The bank in Japan now forwards the draft and documents to its agency or correspondent in this country. The papers are all presented to the bank issuing the credit. If it finds everything in order, it accepts the draft, returning it to the party presenting it. The shipping and other documents are retained to be surrendered to the importer, probably in exchange for a trust receipt, to enable him to get his raw silk. The importer thus has ninety days in which to secure the raw silk and dispose of it before he is required to place his bank in funds to meet the maturing draft. The representative of the Japanese bank sells the acceptance in the open market at the prevailing rate for ninety-day bills.

For making this transaction possible the importer's bank charges him a small commission for accepting the draft. Only credits issued by the well-known banks, of course, will be acceptable to the exporter, as he wants a bill which will command the best rate. This business is, therefore, usually handled by banks in the larger centers. The lesser-known institution usually has credits required by its importers, issued by one of its large correspondents, under the guarantee of the smaller bank.

An Exportation Acceptance.

An exporter here is negotiating for the sale of shoes to a firm in Argentina. He is not willing to ship the shoes and draw a draft direct on his customer, nor is he willing to sell him on open account. It is therefore necessary for the purchaser to

finance the transaction by means of a banker's credit. The purchaser goes to his bank in the Argentine and asks it to arrange a credit with its correspondent in the United States to cover the value of the shoes. The Argentine banker, knowing that the purchaser is a satisfactory credit risk, requests his correspondent in this country to issue the credit. The Argentine banker guarantees that the bank issuing the credit will be placed in funds before the maturity of any draft drawn on it under the credit. The bank here then advises the exporter that, as requested by the purchaser, it will accept his drafts drawn on it up to a certain amount when the drafts are accompanied by the documents mentioned in the Letter of Credit.

These documents, of course, must represent the shoes which have been shipped. The credit also probably states that it expires on a certain future date, thus making it necessary for the exporter to complete his end of the transaction within a reasonable time.

As soon as the exporter secures his necessary shipping and other documents he draws a draft on the bank here issuing the credit, having a maturity in accordance with its terms, for the value of the shoes. The exporter presents the draft and documents to the bank issuing the credit. Everything being as stipulated in the credit, the bank accepts the draft and returns it to the exporter, who sells it in the market and thus receives payment for his shoes. The documents are forwarded to the bank requesting that the credit be opened, and are probably released by them to the purchaser. The Argentine bank, through remittances, or by charge against its balance in this country, places its correspondents in funds to meet the draft at maturity.

Acceptances Arising Out of Transactions Involving the Domestic Shipment of Goods

A manufacturer, desiring to finance his purchases of raw material through the medium of bankers' acceptances, requests his bank to issue a credit in favor of the people from whom he is purchasing. The credit should be for an amount not exceeding, of course, the value of the goods being purchased. The drafts might have a usance which would give the purchaser

time to make up the raw material and sell the manufactured product. This maturity shoud not, however, exceed ninety days, as bills with a longer maturity do not have as ready marketability. This arrangement being satisfactory to the seller, he will ship his goods, draw a draft for their value on the bank issuing the credit, and forward the draft and shipping documents to the bank. It must be borne in mind that the shipping documents must be so issued or indorsed as to give the bank title to the goods. The bank accepts the draft and returns it to the shipper, who disposes of it at the prevailing discount rate. The documents are turned over to the manufacturer, probably under a trust receipt, and he is enabled to secure his raw material, manufacture and sell his goods. Before maturity he is required to place the bank in funds to meet the draft.

Acceptances Which Are Secured by Readily Marketable Goods in Warehouse.

A clothing manufacturer, for example, desires to carry his stock of wool through the use of banker's acceptances. He places the wool in a warehouse, draws a draft on his bank for the value of the wool, attaching the warehouse receipts as collateral. The draft, after acceptance, is returned to him to be sold, the warehouse receipts being retained by the bank. The wool must be stored in a warehouse which is independent of the manufacturer; that is, the manufacturer must not have any control of the wool as long as the warehouse receipts are outstanding. It is, of course, possible to secure possession of the original warehouse receipts by substituting other warehouse receipts for wool, but if the manufacturer desires to take down wool without substitution he should give the bank the cash value of the wool taken, for the bank should be secured either by warehouse receipts or cash all the time its acceptance is out.

Drafts Drawn for the Purpose of Furnishing Dollar Exchange.

It sometimes happens that persons in foreign countries having obligations to meet here are not able to secure dollar ex-

change to remit in settlement. To provide for any such contingency the law and the regulations of the Federal Reserve Board permit banks here to accept drafts drawn on them by banks in certain foreign countries for the purpose of furnishing such dollar exchange. A bank desiring to accept bills drawn for this purpose must first make application to the Federal Reserve Board for permission to do so. The restrictions surrounding acceptances for this purpose are fully set forth in the regulations and informal rulings of the Board.

Specimen of draft drawn abroad in dollars and accepted by an American Bank.

No. 2089 $3,468.00

Buenos Ayres, 15 August, 1919

Ninety days after sight pay this First of Exchange (Second and Third not paid) to the order of Smith, Robinson & Co., the sum of THREETHOUSAND FOURHUNDRED SIXTYEIGHT DOLLARS U. S. Value of same.....

.....

.....

which place to account.....against wool per "Verdi" as advised.

To National City Bank,
New York.

Drawn under credit N.C.B. 754.

(Signature)

Smith, Robinson & Co., here represents the original purchaser or discounter of the bill. This is generally a bank or a discounting house.

This draft when accepted by the drawee, the National City Bank, will be stamped across the face ACCEPTED, date of acceptance, stamped signature of the National City Bank, written signature of the authorized officer of the Bank.

Specimen of a draft drawn in America and accepted by a bank.

Exchange for $5.500.

New York, August 10, 1919.

Ninety days after sight of this FIRST of Exchange pay to the order of Ourselves

FIVETHOUSAND FIVEHUNDRED DOLLARS

Value received against merchandise per SS. "China" A/C of Brown, Green & Co., Philadelphia, Pa.

Drawn under credit National City Bank, New York, No. 9876, July 1, 1919

To National City Bank,
New York.

(Signature)

The bank's acceptance is stamped on the instrument as in the foregoing specimen.

The drawer here signs the bill and draws it under a credit which Brown, Green & Co. have arranged with the bank. The maker has the draft accepted and either sells it or discounts it and receives payment for chemicals sold to Brown, Green & Co. At maturity the bank will look to Brown, Green & Co. direct or if the credit be a guaranteed one, to the guarantors for settlement.

The principal provisions of the Federal Reserve Act and regulations of the Federal Reserve Board governing the dealing in bank acceptances are summarized in the following extracts:

General Statement of the Acceptance Policy of the Federal Reserve Board.

The Federal Reserve Board desires to avoid the adoption of rigid regulations covering acceptances. The development of an efficient acceptance system will be facilitated if the banks of

the United States assimilate and voluntarily adopt the underlying principles by which the Board must be guided, without requiring inflexible rules.

Conservation of the strength of the Federal Reserve System requires:

(*a*) That it be possessed of short paper well scattered in its maturities (not exceeding ninety days);

(*b*) That when this paper matures it can be actually collected;

(*c*) That the supply of new paper coming into the market can be controlled to a certain degree by an advance or decline in the rate of interest at which bankers' acceptances are bought.

Agreements to grant credits for an extended period by the purchase of 90-day paper or by 90-day acceptances ought to be based upon transactions connected directly with the purchase and sale of goods and the intermediate process of manufacturing. Credits so extended should relate to the (liquid) resources of the borrowing concern and should not be granted for the purpose of furnishing working capital or for the temporary financing of permanent investments.

These transactions should be of an individual character. They call for direct contact between banker and borrower, and syndicate credits should be avoided. Agreements by bankers to furnish one or two year money at a definite rate of interest against 90-day paper or acceptances to be used to finance themselves should not be countenanced, either openly or in the form of exchange of paper between bankers.

Syndicate acceptance credits. The Federal Reserve Board has issued a memorandum stating its policy in dealing with acceptances drawn under credits extending over a period of one or two years.

In this memorandum the Board authorized the banks of New York, during a period which may be declared ended at any time, to proceed upon certain principles which may be summed up as follows:

1. Acceptance credits opened for periods in excess of 90 days should only, in exceptional cases, extend over a period of more than one year, and in no case for a time exceeding two years.

2. Banks which are members of groups opening these credits should not buy their own acceptances, and where an agreement is made with the drawer for purchase of acceptances for future delivery, the rate should not be a fixed one, but should be based upon the rate ruling at the time of the sale.

3. Transactions covered by these credits should be of a legitimate commercial nature, and acceptances must be eligible according to the rules and regulations of the Board.

4. Whenever syndicates are formed for the purpose of granting acceptance credits for more than moderate amounts, Federal reserve banks should be consulted with regard to the transaction. The question of eligibility, both from the standpoint of the character of the bill and of the amount involved, will be passed upon by the Federal reserve bank subject to the approval in each case of the Federal Reserve Board.

It must be understood in passing upon these transactions that not only quality but also quantity must be the controlling factors. The aggregate of these acceptances should not be permitted to constitute the greater proportion of outstanding acceptances at any time, and it must be understood that while the Federal Reserve Board might look with favor upon a transaction as long as the total amount involved is not excessive, transactions of exactly the same character may be ruled out whenever the aggregate amount of outstanding acceptances of this character becomes, in the opinion of the Federal Reserve Board, unduly large.

Rediscounts with Federal Reserve Banks.

Member banks of the Federal Reserve System are authorized to rediscount notes, drafts, bills of exchange, and bank acceptances with Federal reserve banks under the following provisions of the Federal Reserve Act:

"Upon the indorsement of any of its member banks, which shall be deemed a waiver of demand, notice, and protest by such bank as to its own indorsement exclusively, any Federal reserve bank may discount notes, drafts, and bills of exchange arising out of actual commercial transactions; that is, notes, drafts, and bills of exchange issued or drawn for agricultural, industrial, or

commercial purposes, or the proceeds of which have been used, or are to be used, for such purposes, the Federal Reserve Board to have the right to determine or define the character of the paper thus eligible for discount, within the meaning of this Act. Nothing of this Act contained shall be construed to prohibit such notes, drafts, and bills of exchange, secured by staple agricultural products, or other goods, wares, or merchandise, from being eligible for such discount; but such definition shall not include notes, drafts, or bills covering merely investments or issued or drawn for the purpose of carrying or trading in stocks, bonds, or other investment securities, except bonds and notes of the Government of the United States. Notes, drafts, and bills admitted to discount under the terms of this paragraph must have a maturity at the time of discount of not more than ninety days, exclusive of days of grace: Provided, that notes, drafts, and bills drawn or issued for agricultural purposes or based on live stock and having a maturity not exceeding six months, exclusive of days of grace, may be discounted in an amount to be limited to a percentage of the assets of the Federal reserve bank, to be ascertained and fixed by the Federal Reserve Board.

"The aggregate of such notes, drafts, and bills bearing the signature or indorsement of any one borrower, whether a person, company, firm, or corporation, rediscounted for any one bank, shall at no time exceed ten per centum of the unimpaired capital and surplus of said bank; but this restriction shall not apply to the discount of bills of exchange drawn in good faith against actually existing values.

"Any Federal reserve bank may discount acceptances of the kinds hereinafter described, which have a maturity at the time of discount of not more than three months' sight, exclusive of days of grace, and which are indorsed by at least one member bank."

(Federal Reserve Act, Section 13.)

"No Federal reserve bank shall be permitted to discount for any (member) State bank or trust company notes, drafts, or bills of exchange of any one borrower who is liable for borrowed money to such State bank or trust company in an amount greater than ten per centum of the capital and surplus of such

State bank or trust company, but the discount of bills of exchange drawn against actually existing value and the discount of commercial or business paper actually owned by the person negotiating the same shall not be considered as borrowed money within the meaning of this section. The Federal reserve bank, as a condition of the discount of notes, drafts, and bills of exchange for such State bank or trust company, shall require a certificate or guaranty to the effect that the borrower is not liable to such bank in excess of the amount provided by this section, and will not be permitted to become liable in excess of this amount while such notes, drafts, or bills of exchange are under discount with the Federal reserve bank."

(Federal Reserve Act, Section 9.)

"No member bank shall act as the medium or agent of a nonmember bank in applying for or receiving discounts from a Federal reserve bank under the provisions of this Act, except by permission of the Federal Reserve Board."

(Federal Reserve Act, Section 19.)

"The discount and rediscount and the purchase and sale by any Federal reserve bank of any bills receivable and of domestic and foreign bills of exchange, and of acceptances authorized by this Act, shall be subject to such restrictions, limitations, and regulations as may be imposed by the Federal Reserve Board."

(Federal Reserve Act, Section 13.)

"The Federal reserve banks shall be authorized, subject to the maturity limitations of the Federal Reserve Act and to regulations of the Federal Reserve Board, to discount the direct obligations of member banks secured by . . . bonds of the (War Finance) Corporation and to rediscount eligible paper secured by such bonds and indorsed by a member bank."

(War Finance Corporation Act, Section 13.)

Any federal reserve bank may discount for any of its member banks any note, draft, or bill of exchange provided:

(*a*) It has a maturity at the time of discount of not more than 90 days, exclusive of days of grace; but if drawn or issued for agricultural purposes or based on live stock, it may have a maturity at the time of discount of not more than six months, exclusive of days of grace;

(*b*) It arose out of actual commercial transactions; that is, it must be a note, draft, or bill of exchange which has been issued or drawn for agricultural, industrial, or commercial purposes, or the proceeds of which have been used or are to be used for such purposes;

(*c*) It was not issued for carrying or trading in stocks, bonds, or other investment securities, except bonds and notes of the Government of the United States;

(*d*) The aggregate of notes, drafts, and bills bearing the signature or indorsement of any one borrower, whether a person, company, firm, or corporation, rediscounted for any one member bank, shall at no time exceed ten per cent of the unimpaired capital and surplus of such bank; but this restriction shall not apply to the discount of bills of exch drawn in good faith against actually existing values;

(*e*) It is indorsed by a member bank;

(*f*) It conforms to all applicable provisions of this regulation.

Eligibility of notes, drafts and bills of exchange. The Federal Reserve Board, exercising its statutory right to define the character of a note, draft, or bill of exchange eligible for rediscount at a Federal reserve bank, has determined that:

(*a*) It must be a note, draft, or bill of exchange the proceeds of which have been used or are to be used in producing, purchasing, carrying, or marketing goods in one or more of the steps of the process or production, manufacture, or distribution;

(*b*) It must not be a note, draft, or bill of exchange the proceeds of which have been used or are to be used for permanent or fixed investments of any kind, such as land, buildings, or machinery;

(*c*) It must not be a note, draft, or bill of exchange the proceeds of which have been used or are to be used for investments of a purely speculative character;

(*d*) It may be secured by the pledge of goods or collateral, provided it is otherwise eligible."

(Regulations of Federal Reserve Board, Regulation A, Series of 1917 A, II.)

Open market transactions. "Any Federal reserve bank may, under rules and regulations prescribed by the Federal Reserve Board, purchase and sell in the open market, at home or abroad, either from or to domestic or foreign banks, firms, corporations, or individuals, cable transfers and bankers' acceptances and bills of exchange of the kinds and maturities by this Act made eligible for discount, with or without the indorsement of a member bank.

"Every Federal reserve bank shall have power . . . to purchase from member banks and to sell, with or without its indorsement, bills of exchange arising out of commercial transactions, as hereinbefore defined. . . . ."

(Federal Reserve Act, Section 14.)

4. Bank Acceptances and the Discount Market.

Prior to the enactment of the Federal Reserve Act National Banks in America were not authorized to accept time drafts drawn upon them, and it was their practice to arrange with foreign banks, mainly in London, to accept for them against their guarantee. Only by such means were the American banks enabled to furnish the complete banking service required by their clients. A few state banks were allowed to accept such time bills, but the lack of an open discount market made it impossible for them to go into this business extensively.

As we have seen, the Federal Reserve Act introduced a very important change into this situation. We have quoted the regulations of the Federal Reserve Board governing the acceptance of drafts by member banks of the Federal Reserve System. We may summarize the purposes for which this permission has been granted under four heads: to cover the exportation and the importation of commodities, to create dollar exchange, to finance domestic shipments of goods, to carry goods in warehouses under certain restrictions.

In a masterly analysis dealing with American Bank Acceptances and Foreign Trade, presented to the Acceptance Council, Mr. Kent of the Bankers Trust Company points out an interesting condition which has developed in the American acceptance

business due to the exigencies of the war and the initial period of reconstruction:

Properly a banker's acceptance should be paid at maturity without renewals. In the early part of the war, however, a condition developed which made it necessary for the United States, if it would maintain its exports to Europe, to advance dollars to the Allies. It was found that the Anglo-French loan, and other issues of similar securities, were not sufficient to cover requirements, and a series of credits was established under which foreign institutions, more particularly French, drew upon American banks at 90 days sight, with the privilege of three renewals, to cover exports from the United States. The Federal Reserve Board recognizing the emergency need ruled that such acceptances were eligible for purchase by Federal Reserve Banks. Since the armistice this form of credit to cover the exportation of goods from the United States to Europe has been under consideration in connection with the trade of a number of European countries. The desire at the moment for such credits is due to the fact that Europe is not in position to export sufficient goods to meet her imports, and until her industries and trade pick up she cannot obtain dollars to pay for raw materials needed from the United States. Through the establishment of 90 day sight credits, with three renewals, covering a period of one year, it is hoped that the condition will change sufficiently to enable payment at final maturity.

Under ordinary conditions American banks would not be called upon to issue acceptance credits to pay for exports from the United States. An acceptance credit must be established by the buyer of the goods directly or indirectly. On that account it is natural and proper that buyers should go to their own bankers for their credits, for their standing is better known, their business can be followed more closely, and a better hold can be had by such bankers on goods purchased. The local banker of the importer, therefore, is usually the one called upon to issue credits, and where exchange on his own country is marketable by the exporter at satisfactory rates, such banker will naturally issue a Letter of Credit in the money of the country of the importer rather than in that of the exporter. It is only when his own exchange is at a heavy discount in the country of the ex-

porter that the banker of the importer is called upon to issue a credit in the money of the exporter, or of some other country whose money is quickly marketable to the exporter.

For instance, a French importer of cotton before the war went to his French banker and obtained acceptance credits in francs at say 60 or 90 days to pay for imports of cotton from the United States. The American exporter was given the name of the French bank on which he was to draw his drafts in francs. Such a credit was entirely satisfactory to the American exporter, as there was a wide market for French francs in the United States and he could sell his bill of exchange on the French bank for dollars to any one of many American institutions, which are actively competing for franc exchange. While the exporter drew his bill in francs, he nevertheless received dollars, which he required to continue his business, and such dollars were immediately available through the sale of his franc bill to American bankers even before acceptance. Exporters of cotton in the United States had no difficulty in selling such bills of exchange with bills of lading for the cotton attached as collateral, even though they had comparatively little capital and the bill of exchange could not be presented to the French bank for acceptance for ten days or so.

With French exchange in the United States at the heavy discount that exists to-day, together with the rapidity of its fluctuations, the American exporter is not satisfied to accept a franc bill of exchange, and the importer is required to furnish a dollar acceptance. This he does again through his French banker, but instead of the French banker agreeing to accept a bill drawn upon him in francs, he must arrange with his American banking correspondent to accept a draft drawn upon such correspondent in dollars. Before doing so, however, it is essential that the French banker assure himself that he can obtain the dollars at maturity of the draft, and before the American correspondent will issue the credit, he must also be satisfied that the French banker is going to be able to obtain the dollars at maturity. The French banker recognizing the risk involved in the dollar exchange rate may not be willing to issue the credit for the French importer. He is between two fires—the French importer may not be able to pay him the extra cost of the dollars at maturity

of the acceptance, and the French banker may not be able to obtain the dollars at any rate.

As it is as necessary and valuable to the American exporter to sell his cotton as it is to the French importer to purchase it, under such conditions the exporter naturally tries to co-operate with the importer to develop some method under which transactions can be safely carried out. Pressure is therefore brought upon the American banks by the American exporters, and the developing of a credit arrangement which under normal conditions would take place entirely in France is thrown upon this country, for it is only upon the willingness of American bankers to extend the credits that exporters can make their sales, and that the importers will be in position to indirectly furnish the credits.

Before American banks were authorized to accept time bills drawn upon them it was necessary for importers in the United States to arrange with their American bankers to engage with some foreign banker to accept for their account in order to carry on their business. The importer of coffee from Brazil arranged, therefore, with his New York or New Orleans banker to issue a Letter of Credit on a London bank, authorizing such bank to accept bills of exchange drawn at say 90 days sight, that might be issued in Brazil against shipments of coffee to the United States. Where the American bank was well known in Brazil, its letter authorizing the drawing on the London bank of the bill of exchange in Brazil against coffee was sufficient to finance the shipment, otherwise the exporter required a confirmation of the letter from the London bank stating that it would accept the bill of exchange upon presentation. All such bills of exchange were drawn in sterling, and went into the London market, where they were discounted or held until maturity as money market conditions determined.

Since American banks have been able to accept, instead of issuing Letters of Credit upon their London correspondents for the importation of coffee, they have issued letters agreeing to accept bills drawn upon them in dollars at say 90 days sight. Such a credit is exactly as good to the Brazilian exporter as a sterling credit, provided the Brazilian banker will give him local currency in exchange for his bill upon demand, and for the same

amount that he would receive for a bill of exchange drawn under a sterling credit. A bill of exchange drawn upon an American bank in dollars, therefore, will only serve its purpose and place the American importer in position to buy goods in a foreign country by means of such bill of exchange when there is a proper market for dollar exchange in the country of the exporter, which must cover time bills as well as demand.

A bill of exchange drawn on London at 90 days sight could always be turned into cash at a known rate, which could be ascertained in foreign countries before bills were purchased. In order to meet this condition, the Federal Reserve Bank of New York has established so-called "forward discount rates" for dollar acceptances, so that, for instance, bankers in Argentine and Brazil who have had dollar acceptance offered to them knew that upon the arrival of the bills in New York 20 or 30 days after their purchase they could be discounted at certain agreed rates. Exporters from those countries have, therefore, since the establishment of forward rates been in position to obtain local currencies for their dollar bills of exchange at actual discount rates, instead of rates including an insurance to the banks aimed to cover possible fluctuations in the New York discount rate while the bills were in transit.

If it should so happen after exchange conditions become normal that at a certain period the London discount rate for acceptances is say 3%, whereas the New York rats is say 4½%, there will be times when exchange conditions in the foreign countries covering sterling and dollars are right that the exporter will prefer a sterling bill, even though we might have a market for acceptances in New York as largely developed as that in London. The acceptance of arbitrage opportunities, however, by bankers would have a tendency to equalize the differences in the discount rates by causing a fall in sterling, but the market for futures, that is sterling and dollar exchange for delivery 60 or 90 days ahead, would also have an influence on the situation.

Mr. Kent concludes his presentation by an urgent counsel to the Federal Reserve Board to bring about a broader development of the discount market:

Before the war the foreign trade of the United States, both

exports and imports, was financed by foreign banking institutions. While American banks guaranteed the acceptances of foreign banks given for our imports, yet their names did not appear upon the paper, and the bills of exchange were drawn in other moneys, principally sterling.

Since the law has authorized American banks to accept time bills drawn upon them, this situation has been reversed, and to-day American institutions are not only financing our own foreign trade covering both exports and imports, but that between various other countries as well. The rapid development of this change in financing was only made possible because of various war restrictions upon trade and commerce, and the favorable geographical position of the United States in connection with the seat of the war. After peace has been declared, there is good reason to believe that this country will be able to retain the financing of its own imports through American bankers acceptances with a growing increase in the use of such paper to cover exports from one foreign country to another foreign country. This condition presupposes the continued growth of an acceptance market in this country, for without that we cannot expect to hold the financing of our imports with American bankers acceptances, even though this is the natural way for such business to be carried on. The use of American bankers' acceptances in our export trade may, of course, be withdrawn in part as normal world conditions develop unless dollar exchange obtains a favored place in the world's exchange market.

It should be the constant study of the officers of every Federal Reserve Bank to encourage the development of a market for bankers' acceptances in their districts, and they should have the active co-operation of all bankers and business men. The result of such united effort is certain to increase the standing of American financial institutions throughout the world, which will be surely followed by increased trade benefits.

Immeasurable as have been the benefits of the use of bank acceptances in America since their authorization by the Federal Reserve Act and by the regulations of the Federal Reserve Board, both the acceptance business and the operation of a discount market based thereon have by no means reached the fulness of their development. The foremost financial minds of the country

are devoting earnest attention to the elaboration of measures designed to remedy conditions which are not yet perfect. The American Acceptance Council is an organization which has taken up the work of developing the use of the bank and the trade acceptance as credit instruments in international and in domestic commerce respectively. At the last convention of this body held in Detroit on June 9, 1919, vice-president Rovensky of the National Bank of Commerce submitted an analytical study of the acceptance as the basis of the American discount market, and the outline of this speech deserves a very carefull perusal by every student of the banking situation in America as relating to to the financing of shipments:

1. *The most important function of a discount market is that it operates as a central clearing house for bills, in which individual banks may regulate their investment and cash position.* The discount market, to be properly useful, must be of sufficient breadth, so that a bank may be able to purchase therein such amount of bills as it requires to properly balance its investment and cash position with the full assurance that, should its position become altered at any time in the future, it can re-enter the market as a seller and readily dispose of such bills without materially affecting current discount quotations. This naturally necessitates a broad market in which a large volume of bills is constantly being handled and which can readily take or furnish a substantial quality of bills without heavy fluctuations in its rate of discount.

2. *A broad discount market operates as an equalizer of interest rates between different sections of the country.* If in one district the banks have surplus funds, their purchases of bills in the discount market will tend to keep interest rates in that district up to the level of the other districts. In like manner, if in a district interest rates begin to rise above the level of the other districts, the banks of that section, by selling their holdings of bills in the discount market, would tend to keep interest rates approximately at the level of the other districts. It must be understood, of course, that to some extent inequalities in interest rates between various districts would continue, but these inequalities would not be as broad as they are at present. The inequalities would be limited to such difference in interest rat

as the average bank is willing to forego rather than change its position by purchases or sales of bills in the market. As time progresses and banks become more accustomed to dealing in the discount market, this difference would tend to become as small as it is in European countries enjoying highly developed discount markets.

3. *The discount market operates as an equalizer of interest rates between the United States and foreign countries very much in the same manner as it acts in equalizing rates between different sections of the same country.* The existence of a broad, healthy discount market in the United States would encourage foreign banks to purchase our bills as an investment when interest rates in this country are higher than abroad. This would tend to move our interest rates sympathetically with the level of interest rates the world over. Should our rates decline unduly, there would be a tendency on the part of foreign banks to dispose of their holdings of American bills and at the same time our banks would purchase foreign bills and reduce their holdings of domestic bills, and thus a movement toward re-establishing an equilibrium between rates here and abroad would start. This does not mean that interest rates here and abroad would be at the same level, but it does mean that the spread between discount rates for bankers' acceptances here and abroad would ordinarily not be as far apart as they have been in the past.

4. The functions of the discount market as a stabilizer of gold movements between countries may be considered as an after-effect of its operation as an equalizer of interest rates between different countries. Foreign bankers would grow accustomed to having in their portfolios lines of American bills just as American banks have at times lines of foreign bills. As exchange rates advance in this country—which would mean that dollars were becoming cheap abroad—foreign banks would increase their holdings of American bills on account of the cheap dollar exchange rate, while American banks would sell their holdings of foreign bills to profit from the high foreign exchange rate. Gold exports would thus be warded off for a time. Gold imports would be retarded by a reversal of the process.

5. *Preventing unnecessary exports and imports of gold and developing a closer relation between interest rates here and*

abroad would result in a greater stability of American interest rates. There would be a closer connection between the American reservoir of commercial credit and that of Europe. Large bodies are not subject to sudden movements to the same extent that smaller ones are. Interest rates in Europe in normal times are much steadier than ours; discount rates abroad generally move by sixteenths of one per cent and on the whole move within narrow limits.

A broad discount market in this country would become the reservoir of credit with which similar reservoirs abroad would be connected. Without such a reservoir here we can have no really effective connection with the world's money markets and would be subject to the erratic movements of interest and exchange rates which are always a feature of isolated markets.

6. *The necessity of a standardized instrument of credit to the existence of a discount market is so self-evident that a lengthy explanation is not necessary.* The Federal Reserve Act, by introducing the bank acceptance into our banking mechanism, has furnished us the instrument we lacked. In a bank acceptance the element of credit risk has substantially been eliminated by the signature of a bank of unquestioned standing, and to this signature is added the responsibility of the drawers and subsequent indorsers. A prime banker's acceptance properly endorsed, therefore, represents absolute safety as nearly as can be attained in any credit instrument. The rate of discount at which such instruments sell in the market simply represents the actual value of the use of the money and not, as in the case of the discount of an ordinary promissory note, the value of the use of the money plus a premium for the credit risk assumed by the lender. In every country enjoying a highly developed banking system the discount market is based upon the bankers' acceptance, and the discount market in turn is the fundamental basis of the entire money market. Our brief experience since the passage of the Federal Reserve Act justifies the opinion that ultimately our discount market will likewise be based upon the same instrument—the bankers' acceptance.

7. *The component factors of a discount market consist: first, of the accepting banks creating the acceptances; second, of the banks and others who purchase and sell acceptances; third,*

of the central banks of rediscount (in our case the Federal reserve banks) that operate as stabilizers at times when their purchases are considered advisable for the public interest; and fourth, of the discount corporations and brokers—the highly essential middlemen.

a) *The accepting banks.* In England a large part of the acceptances is created by the so-called acceptance houses. The English deposit banks have not in the past been as active in this line as those of France and Germany.

Our own experience justifies the conclusion that the incorporated banks of this country will be the main creators of acceptances. There is no valid reason why they should not be—the fact that they are operating under close public scrutiny gives them a natural advantage over most of the so-called acceptance houses.

The liability assumed by an accepting bank is very much of the same nature as the liability arising out of a deposit, and so long as the total liabilities of a bank bear a fair ratio to its capital, no criticism is justified. It naturally follows that banks or bankers that do not take deposits, but use their capital and surplus solely for the purpose of supporting their acceptance liabilities, may properly maintain outstanding a much larger volume of acceptances than a bank that is heavily burdened with a large line of deposit obligations. In this, as in most other phases of the banking business, no hard and fast rules can be laid down. The guiding principle as to the amount of acceptances that a bank should have outstanding should be: first, the proportion of the bank's capital and surplus to its total liabilities; second, the requirements of its customers for accommodation in that form; and third, the accepting bank's general standing and the market's readiness to absorb its acceptances at the most favored rates.

b) *Banks and other purchasers and sellers of acceptances.* The purchasers and sellers of acceptances constitute the active discount market. A bank that is a purchaser one day may be a seller the next. Whether a bank purchases or sells acceptances in the market should depend entirely upon its own individual cash and investment position. When its position warrants a purchase, it should step into the market and acquire the bills it needs, and when its position changes, it should as freely sell.

c) *The central rediscounting bank.* The central rediscounting bank, in our country the Federal reserve bank, should operate as a stabilizer in cases where the situation becomes one that is not equalized by purchases between banks. There will be times when a preponderant number of banks throughout the country are sellers of acceptances. At such times the Federal reserve bank should purchase under such regulations as it deems wise, either from the member banks or direct in the market, a certain amount of bills. On the other hand the Federal reserve bank should reduce its holdings by collecting maturing bills without re-investing their proceeds when, in its judgment, market conditions and the public interest justify such action. When buying acceptances most of the Federal reserve banks, like European central banks, now generally insist upon a third signature, that is, an additional endorsement besides the drawer and acceptor.

d) *Discount corporations and brokers.* Discount corporations and bill brokers act as middlemen between the various factors of the discount market. They perform a very useful function and no steps should be taken that would tend to curtail their usefulness. The practice of banks holding their own bills should not be encouraged. Likewise, the practice of banks buying one another's bills without the intermediation of a broker is undesirable inasmuch as it tends to retard the developments of the market.

In the case of foreign or domestic acceptances, it matters little whether the accepting bank, acting in fact for the drawer, or the latter himself sells the bill; the essential part is that the mediation of the brokers be favored where possible and the bill be not kept off the market. The brokers operate not only as middlemen but their portfolios of bills constitute the floating supply without which a free open market would be impossible. This floating supply at times is naturally far in excesss of the financial resources of the brokers and consequently some means must be available to them of borrowing money at rates that bear some relation to the level of the discount market.

8. *Our discount market is still in its infancy,* and, while we are making considerable progress, its development is being materially retarded by a number of factors. The volume of ac-

ceptances is much *restricted by legislative regulations* and also *by our comparative inexperience* in that line of business, which retards many of our banks from fully utilizing their acceptance powers. *Every acceptor must realize that banker's acceptances* may finance transactions only that are self-liquidating within a reasonably short time; that acceptance credits must not be used to finance permanent investments, nor pure speculations, nor for the purpose of furnishing working capital; that credit risks must be properly distributed and that acceptances must not serve to camouflage excess loans. Acceptances should be based on self-liquidating transactions, the import and export as well as domestic sales of merchandise, the storage of readily saleable staples, etc. The latter should be confined to raw, basic commodities that are stored temporarily as a part of the regular course of sale and manufacture and should not include commodities stored for speculative purposes or finished merchandise awaiting a market. Adherence to these and similar principles should guide us in formulating our own rules and regulations. However, in view of our extensive banking system, consisting of thousands of large and small banks scattered from one end of the country to the other, a great majority of whom are not accustomed to the use of acceptances, it is advisable that the acceptance business in the beginning be closely regulated both by law and practice.

But the most serious retarding influence operating against the development of our acceptance market is our "call money" system. So long as we have a call money market based upon stock exchange loans, it is impossible for the acceptance discount market to become the important stabilizing medium used by banks to equalize their cash and investment position. When stock exchange call loans pay a higher rate of interest than the acceptance market, money will be withdrawn from the acceptance market in order to go into call loans. While it is recognized that these call loans are not callable, but are really only shiftable, they are much used at present as the main equalizers of the cash positions of the banks. While stock exchange call loans exist, they will always form a preponderating part of the secondary reserves of the banks, and our discount market will be correspondingly retarded in its development.

Another evil effect of our present call money system is that

it absorbs the means by which the discount corporations and bill brokers should properly be assisted in carrying their portfolios. In leading European countries the bulk of call loans are based on bills held by banks and bill brokers. The same would undoubtedly be true in this country, if we did not have our present method of daily settlements on the stock exchange and the resultant stock exchange call loans.

9. *Remedies suggested.* Time and sound economy seem to be the main remedies by which the discount market can be relieved of the influence of Government financing. As Government requirements decrease, Government financing will be reduced in proportion and normal conditions will develop. In all probability Government financing will gradually make way about as fast as our discount market develops.

a) *Call money market based on acceptances.* The only thorough remedy that suggests itself for the abolition of the call money problem is the adoption of fortnightly or other periodical settlements on the stock exchange. This would bring about the custom that prevails in other countries of financing the requirements of the stock exchange by means of contango or settlement loans. There would then be no further use for call loans based on stock exchange collateral, and loans for stock exchange purposes (which are by no means unessential to the commercial welfare of the country) would become short time loans. The bulk of all call loans would in time be based upon acceptances. This is highly essential. The bill broker and discount corporations must have means of carrying their portfolios of bills awaiting distribution.

b) *Temporary measures.* It must be recognized that any alteration in the method of settlement on the stock exchange is a step that will require much time and thought. In the meantime the development of our discount market should not wait. Some temporary steps should be taken to provide the bill brokers with funds to carry their portfolios without loss to them. This is a step that is of importance to every bank in the United States. Every bank is more or less interested in the development of a discount market and consequently should bear its share of this burden. It has been suggested that banks make call loans to bill brokers at attractive rates based on the discount rate. While

this proposal has some favorable features it does not adequately remedy the situation. It requires that a bank be willing to lend its money to the bill brokers, including the discount corporations, usually below current rates, and the inevitable cosequences would be that such loans would be looked upon by the loaning bank as a favor to the borrowers and that money would be doled out in insufficient quantities or would be doled out only to certain favored parties, etc.

This problem is too important to be handled in this unsystematic and somewhat altruistic way. A plan should be adopted that would assure the brokers of always being able to obtain adequate funds and to levy the burden equitably upon all banks. We have an agency that is admirably suited to this purpose. Substantially all of the commercial banks of the country are stockholders and depositors in the Federal reserve bank. They contribute to its capital and by their deposits of reserve they contribute to its loanable funds. If the Federal reserve bank makes loans at rates that are below the market, the loss is distributed equally over all the stockholding banks. It seems thus that this is the agency that should be used for the purpose of temporarily meeting the difficulty that confronts us. Some Federal reserve banks are in effect making such loans through purchases and sales in the open market; but the law ought to be amended, so as to encourage the making of these loans on a much larger scale and in a manner less roundabout than the present.

With the foreging review of American banking practice we conclude our study of the foreign credit problem. Striking changes have occurred in the nation's relation to this problem since the publication of the monograph on "Foreign Credits" in 1913.

At that time, from the point of view of the practical exporter rather than that of the economist, the inadequacy of the American banking mechanism was the chief disadvantage of our position. To-day this mechanism is much improved, and while certain defects still adhere to it, provision has been made by legislation to remedy such defects from time to time as they are discovered. And the business world of the nation has not

yet learned to avail itself in the fullest measure of its various facilities,

But the entire foreign credit problem has long since passed into a new and most significant phase. It is no longer the parochial problem of an individual manufacturer concerned in discounting of a draft on a foreign customer. The foreign credit problem has become one of national, of world-wide importance. It is one of the supremely grave economic problems which are inextricably bound up with our relations to other countries and will stay so bound up. And for this reason it is a matter of profound research not only by the Department of Commerce,—that branch of the administration which is in direct touch with the business man, but also by the Treasury and the State Departments, for in one way or another it enters directly or indirectly into our relations with all foreign nations and into the conduct of all commercial enterprises within the nation.

And our present study deals, of necessity, with a transitory phase of the foreign credit problem, for history is in the making. It behooves, therefore, every business man to follow closely the discussions of this problem by financial experts in the publications and conferences of the Acceptance Council, the National Foreign Trade Council and other prominent organizations.

CHAPTER XVIII.

American Commercial Enterprises Domiciled Abroad.

I. Foreign branch establishments of American firms and the incorporation of subsidiary stock companies under foreign laws.

Trading and organizing under varying jurisdiction and in compliance with manifold laws is no novelty to an American business firm even if engaged exclusively in domestic commerce. Besides Federal regulations governing certain phases of commercial activity, an American firm figures with the local legislation of forty eight states. The legislation in these states differs so greatly that acts which are perfectly lawful in some of them, may bring the firm into conflict with the laws of others. At the same time, with a due recognition of this state of affairs, there is so little essential difficulty in conducting either an interstate business or a business within each state that the average American manufacturer and merchant is hardly aware of the irksomeness of this lack of uniformity.

This is very largely parallelled in international trading: here we also find with a few exceptions an essential freedom of trading and a variety of legislation governing the methods of exercising this fredom. Restrictions are not numerous. Regulations as to form are many. Before launching forth upon the cultivation of business in foreign territories on a scale necessitating the appointment of a representative with a power of attorney to act for them, or the establishment of a branch office, or the incorporation of a company under foreign laws, it is advisable that American manufacturers and exporters should give a thorough study first to the general international law as relating to the rights of persons, natural and artificial, and to the local regulations governing the establishment of branches by foreign firms and the incorporation of stock companies in the countries in which they intend to operate.

As the result of manifold transactions of international character in commerce, the laws of various nations relating to obligations are brought into mutual international relationship. Thus we have to deal with conflicts in what is known among European nations as the civil law, as well as with conflicts in procedure affecting litigation by aliens and non-residents in local courts, and their participation in local insolvency proceedings.

International law deals with these conflicts, but it is far from being an exact science with clearly defined delimitations and definitions. We distinguish between *international public law,* of which the subjects are the nations and the relations between them, and for which the only tribunal had been in the past the permanent court of arbitration at the Hague, and lately a tentative partial machinery has been suggested in the proposed League of Nations; and the *international private law,* of which the subjects are private persons, natural or artificial, and in which local courts are competent. The international private law must determine to what extent aliens are subject to the law of the land where they are domiciled and sojourning or doing business, and in how far they are subject to their own country's laws, and the same for citizens of the local state domiciled, sojourning or doing business in foreign countries. International treaties deal largely with these matters. In commercial relations it appears highly desirable to unify international usage with regard to commercial bills, trade-marks and patents, and the maritime law. Until the Paris conference of 1919 neither the United States nor Great Britain had taken part in international conferences (excepting the Peace Conference at the Hague in 1899 and some Pan-American conferences) aiming at such unification.

Neither in American nor in English usage is there a specific body of law known as commercial law, but in many other countries there are special commercial codes containing rules differing from the ordinary rules of law and applicable to transactions between merchants, and between merchants and non-merchants. There are also in many countries special commercial courts with their own mode of procedure.

In addition to commercial laws most countries recognize the

existence of *commercial usage*, and conflicts among usages are dealt with as conflicts among laws. That which is customary in practice is considered as having the same force as though expressly willed by the parties.

Fortunately there is a growing tendency to establish a substantial uniformity of rules and laws affecting many phases of commercial intercourse. Railroad and postal laws, trade-marks and patents, as well as copyrights have been made the subject of uniform agreements between many states. Indeed, it is to be hoped that even the subject of the international status of stock companies will be regulated by international treaties.

With regard to the rights of foreign merchants modern custom permits aliens to pursue trade and industry inland and to have the same rights of protection as the natives. In some countries this right is expressly guaranteed in the commercial code, as in Spain and Portugal, while in others it is made contingent upon similar treatment being accorded by the state of which the foreign merchant is citizen or subject. In some countries special exemptions are made for certain trades and professions which are open only to native citizens or subjects, as for instance the druggist trade in Austria and Russia is not open to foreigners.

But the business of foreign merchants is subject to regulations as to conduct, the same as native merchants, including the enforcement of publicity and and orderly manner of keeping books, etc. In some countries the books of foreign merchants may be kept in any modern language, while others provide that they must be kept in the language of the country.

The status of artificial persons (corporations, stock companies and associations) is determined by the law of the place of their creation, but if they operate in foreign countries they must obey ordinances belonging to the industrial laws of the state where they operate, and in some countries they must expressly obtain official ratification or authority before being permitted to operate. European usage considers partnerships as artificial persons.

In American and English jurisprudence it has been held

that foreign corporations have no legal status outside of the state where they are created, but their power to enter into legal relations with internal corporations is not interfered with, thanks to the operation of the doctrine of comity, the effect of which is that the powers granted by the charter of a corporation created in a foreign country are recognized if consistent with the laws and policy of the state where the foreign corporation desires to operate.

Under the rules of most European countries a branch establishment is one which is located in a place different from that of the principal but conducts a business of the same order. A merely technical function, such as a factory, does not constitute a branch establishment. Neither agencies nor warehouses for consignment stocks, for instance, are regarded as branch establishments. For the establishment of branches of foreign houses many countries have specific regulations regarding registry, the use of the firm name, etc., as will be pointed out in detail below.

An American manufacturer or exporter may freely trade with all countries, provided there is no temporary prohibition against such trading caused by a state of war or the existence of blockades, and provided there is no prohibition of the export or import of the merchandise in which he trades.

But the moment he enters a foreign country as a business entity operating from that country, either through a representative to whom he grants a power of attorney to act for him, or by opening a branch establishment, or by seeking a local charter for the forming of a company or association recognized by the laws of the country where he desires to operate, he must comply with the laws of that country.

Powers of attorney. By a power of attorney the grantor, or the *mandant,* gives a *mandate* to the attorney, or mandatary. The domiciliary law of the mandatary governs the obligation of the mandant within the scope of the authority granted. The mandatary acts in the place of the mandant, and therefore the latter must submit to be judged in the same manner as the mandatary himself. A power of attorney to sue is governed by the laws of the country where the action is brought.

It is the custom to recognize the intent of a power of attorney, as expressed in its wording, rather than any specified form. The power of attorney to be recognized abroad must comply with the following general directions:

It must not convey greater power than the grantor has the right to convey. It must bear within itself, or attached to it, the evidence that the grantor has the right to give the mandate. If in granting the power of attorney, he acts for a partnership, that portion of the partnership contract which authorizes him to grant powers of attorney must be cited. If he acts for a corporation, an extract of the minutes of the board of directors authorizing him to grant the power of attorney must be cited. The business entity in behalf of which the power of attorney is granted should be clearly described. If it be a corporation, an extract of its certificate of incorporation should be attached. The object of the corporation should be clearly stated. Any extracts from the certificate of the incorporation or from the minutes of the board of directors should be signed by the secretary and every document should be sealed with the official seal of the company.

Foreign countries have no means of verifying the signature of American firms or individuals. For this reason these signatures must be certified, and the documents legalized as conforming with American regulations at the nearest consular office of the state in which the power of attorney is to be exercised. The consuls of these states can not verify the signatures of the notaries before whom these documents are executed, for which reason they must be first taken either to the county clerk or to the secretary of state in the jurisdiction of which the notary has his certificate. Only then will the consuls legalize the power of attorney.

The powers of attorney and all attached documents should be made out in English, and a translation into the language of the state in which the power is to be exercised should be added and likewise certified at the proper consulate as accurate and exact.

As to contents, the principal thing is to express clearly the

exten. of the authority conveyed and the fact tnat the grantor does not exceed his powers in granting the mandate.

In determining the question whether to establish his own branch office or merely to appoint an agent in a certain foreign territory where he desires to operate, the manufacturer or exporter will first of all examine the commercial advantages or disadvantages of both forms of operation, and if he decides to establish a branch office, he will study the local requirements and formalities which apply. A fairly complete list of these is given below.

With regard to seeking a charter under the laws of a foreign country, the situation should be judged very carefully before a decision is made. Ordinarily an American company can operate abroad through a branch office without the necessity of incorporating a subsidiary company. In some countries legislation may be enacted at any time taxing the entire resources of a foreign company. This may lead the manufacturer to organize under a foreign local charter. But there are certain advantages in operating as an American company. In the first place there is the diplomatic protection of the United States which is entirely forfeited if business is carried on under a foreign charter, unless, indeed, protection is sought by the Americans as individuals. There are also in certain countries requirements that a certain perecentage, if not the whole of the board of directors be natives.

It is very advisable for all manufacturers doing an extensive foreign business to organize their export activities under an American subsidiary corporation with a limited capital. This will put the foreign branches out of the reach of improper attempts to tax that portion of the parent company's capital which is not involved in the operation of the branch.

For some countries it is advisable to establish a special company, as for instance for Brazil. Thus the "Combined Steel Company," operating steel mills in Pittsburgh, with a capital of $50,000,000, may organize the "Combined Steel Export Company," with a capital of $500,000, and the "Combined Steel Export Company of Brazil," with a capital of $50,000.

With the exception of cases where some advantage may be gained by being a local company from the point of view of owning land or operating factories, or enjoying the benefits of preferential customs treatment, as in Canada and Great Britain, the better plan is to operate as an American corporation, obtaining the necessary authorization for operations in each country, and complying with each country's requirements as to publicity, balance sheets, etc.

In the following the regulations governing the establishment of branches and the incorporation under local laws are given for most of the principal countries.

2. Foreign Trading and Company Laws.

(The information given in the following pages contains the latest available data regarding the laws and regulations of the countries mentioned, as affecting American business houses operating there. Readers are cautioned that in the countries engaged in the World War extraordinary measures either have been or may be at any time introduced which would render all information on the subject of taxes as given below inaccurate. With the exception of a few countries only fragmentary information is given. The author is preparing a work dealing exhaustively with the company laws of all countries and expects to have it ready for publication early in 1920. In the meanwhile fuller data may be received, if available, on application to the author care of the publishers.)

ABYSSINIA.

No regulations or laws have been promulgated in Abyssinia restricting in any way the freedom of trading by foreign concerns. Branches of American houses may be freely established here. There is no incentive or need for incorporation under local laws. The attention of exporters and manufacturers is specially called to this market which is very receptive towards American products.

ARGENTINA.

No limited liability company can be legally constituted in Argentina without having its articles of association first approved by the Government and duly published before commencing operations. The Argentine laws provide for compulsory

liquidation of domestic limited liability companies in the case of loss of 75% of their nominal capital. The directors are liable to shareholders for further loss, unless they have duly apprized them of the position of the company.

Foreign limited liability companies and similar corporations may operate freely in the Argentine Republic, after giving proof to competent magistrates that they had been constituted in accordance with the requirements of their country. Thereupon they must register a copy of their act of incorporation, their statutes and other documents with the public Registrar of Trade.

All firms and individuals conducting business in the Argentine Republic must take out annual trading licenses, the costs varying for each class of business.

AUSTRIA.

The republic of Austria, the shrunken residue of a once powerful Empire, has as yet not promulgated legislation affecting the incorporation of stock companies or the establishment of branches of foreign concerns. The legislation of Austria is as yet in the embryonic state, and for all intents and purposes the regulations of the Austrian Empire are still in force.

The Imperial laws of Austria required all foreign companies and firms to obtain the authorization of the Austrian government before commencing operations in Austria from a branch or an office within the limits of the Austrian Empire. All foreign-owned enterprises had to be entered in the Commercial Register. Each concern had to furnish a copy of its annual balance sheet, showing the assets and liabilities of its business in Austria and Hungary. In connection with disputes arising between such branches and offices of foreign-owned enterprises and other firms in Austria, the Austrian laws prevailed. The names of agents authorized to act for a foreign firm and to sign for it had to be given in the register and all powers of attorney granted in this connection had to be registered. In view of the taxation to which all companies in Austria will be subject, there is no incentive for an American company to incorporate under the laws of Austria.

BELGIUM.

The Belgian company law, like that of France, is based upon the Code Napoleon. The Belgian law recognizes the following classes of firms and companies:

1. La Société en nom collectif,—an unlimited liability private company.

2. La Société en commandite,—a simple limited partnership, capital being furnished by members having limited liability.

3. Société co-operative — a limited liability co-operative company.

4. Union de credit—a special form for credit banks.

5. Société anonyme—limited liability joint stock company.

6. Société en commandite par actions—an unlimited liability company with capital divided into shares furnished by members having limited liability.

An unlimited liability private company is like a partnership in the United States, in that each member is liable for the entire indebtedness of the firm.

The simple limited partnership has two classes of partners, the working (commandité) and the capitalist (commanditaires). The first are jointly liable for the entire indebtedness of the firm, while the latter are liable only for the extent of their investment. This gives an opportunity for wealthy investors to aid a struggling young firm without becoming liable for more than the amount assigned to that purpose. If that amount has been fully paid, the capitalist partner's liability ends, otherwise it holds good for the unpaid portion of the investment. The name of the firm must be composed only of the working partners, as the firm must not trade on the credit standing of its silent partners. The latter can not receive interest on their investment until all the expenses of the business have been paid. Only working members can sign for the firm.

The co-operative limited liability company consists of at least seven subscribers who are all jointly liable.

The Union de Credit form of incorporation is of minor interest, being a form preferably used by banks engaged in granting credit.

In the limited liability joint stock company shareholders are liable only for the amount subscribed. After they have paid their shares in full, no further liability attaches to them. The company must have at least seven subscribers. The capital must be subscribed in full. The promoters must take up all unsubscribed or unpaid shares. 10% of each share must be paid in before the company can commence business. Shares cannot be transferred until 1/5 has been paid. This must be proved before the notary. First general meeting must be held before the notary immediately after the proof of the payment of 1/5 of the shares. Subscriptions can be only received on special forms. The shares are considered personal property and are not subject to inheritanc tax. The company must use title Société Anonyme. 30 years is the limit of incorporation. The members must be registered.

An annual tax of 4% on all profits must be paid to the state after the deduction of all allowances.

All foreign companies incorporated under foreign laws with headquarters outside of Belgium can freely trade and sue. If the headquarters of the company are in Belgium, they are considered Belgian companies and must publish full particulars of their incorporation and annual balance sheets. The directors and managers in charge of the Belgian business must have the same responsibility as if they were directors and managers of a Belgian company. A Belgian representative to be responsible for taxes must be appointed. The company must pay a tax on the amount of business done in Belgium. It must keep books of its Belgian branch and must make a declaration of profits no later than six months after the close of its business year. All expenses, even the taxes, may be deducted from the net profits.

BOLIVIA.

All stock companies whose headquarters are abroad must appoint a legal representative in Bolivia, if they seek to operate in Bolivia. The representative may be a holder of a power of attorney, or the company may delegate a board of directors to act for it. All stock companies must furnish the Ministry of Trade (Ministerio de Industria) with a copy of their incorporation,

of their statutes, the names of the directors, the amount or shares paid in. Foreign stock companies must furnish these data duly legalized by a consular officer of Bolivia. The government on examining these documents may authorize the company to operate in Bolivia. The stamp taxes will be paid to the Bolivian Treasury.

Copies of balance sheets and lists of stockholders must be presented annually by the representative or the board of the directors of the company within 90 days of the end of the company's fiscal year, in duplicate, to the Ministerio de Hacienda é Industria.

BRAZIL.

All representatives of foreign firms, whether residing in Brazil or freely traveling through Brazil must be provided with powers of attorney. These must be duly authenticated by Brazilian consuls in the country where the instrument originates. The reprensentative can transact business in his own name only, but can not carry on business for his firm. Foreign partnerships are not recognized in Brazil, but must be formed locally and registered locally to acquire a status.

In view of the peculiar difficulties of carrying on business in Brazil in behalf of a foreign company or partnership, it is advisable to incorporate a Brazilian company to carry on business in that country.

A foreign corporation can obtain a legal status in Brazil by applying for an authorization of the Brazilian government to operate in Brazil, which is granted by a certificate of domestication. A foreign company can also form a purely Brazilian corporation.

In the first case only one resident representative is required who bears the responsibility for the conduct of the company's affairs in Brazil. A Brazilian corporation requires a board of directors and an advisory committee residing in Brazil. The domesticated foreign corporation is entitled to the diplomatic protection of the country of its origin. Such corporations are for the present exempt from the payment of the Brazilian Federal corporation dividend tax of 5%. They pay, however, the

annual Federal and state business taxes and a corporate income tax law in the state of San Paulo. The Brazilian government has the right to revoke the certificate of domestication, for which reason it is better for permanent operations in Brazil to incorporate under Brazilian laws.

For the purpose of obtaining authorization to operate in Brazil as a branch of an American corporation, the following documents, legalized by a Brazilian consul in America, must be submitted:

Copy of the corporation charter, copy of the by-laws, original act of incorporation with a statement of shares held by each subscriber, a special power of attorney to petition for a certificate of domestication in Brazil and to accept changes in by-laws suggested by the Brazilian government, general power of attorney to the representative in Brazil (in duplicate), certificate of a special resolution by the board of directors authorizing operations in Brazil and setting aside a special capital for Brazilian operations, otherwise the entire capital of the company may be assessed for stamp and other taxes. It is often advisable to form a special corporation in America entitled "———— Company of Brazil," and to proceed with the application for domestication as above shown, with the omission of the last-named document. The certificate of domestication may be worded so as to cover all of the states of Brazil. Besides the payment of several taxes it is necessary to deposit one tenth of the capital assigned to Brazilian operations in the Bank of Brazil. This deposit is returned, with the deduction of certain commissions, after the formalities are completed.

In order to form a Brazilian company it is necessary to have at least seven subscribers, and the entire capital stock must be subscribed. No specific authorization of the Brazilian government is required excepting for the incorporation of Brazilian corporations for transacting banking and insurance business or for dealing in foodstuffs. The majority of the stockholders should reside in Brazil. The meetings and the books of the company must be held and kept in Brazil.

(Extract of "Legal Requirements for operations of corporations in Brazil," by R. P. Momsen, Rio de Janeiro.)

BULGARIA

All foreign corporations doing business in Bulgaria must bring proof that their incorporation is valid in their own home country. Powers of attorney granted by foreign companies to persons in Bulgaria must be registered. All foreign companies operating in Bulgaria must submit to Bulgarian laws. A foreign company establishing a branch in Bulgaria must appoint a local Board of Directors composed of Bulgarian subjects and responsible for the Bulgarian business.

CHILE

Foreign firms must obtain the authorization of the president of Chile before opening branches in Chile. They must publish in the official Gazette full details regarding the partnership composition or the directorate of the company. Full particulars of incorporation must be registered. If a foreign firm appoints an agent in Chile, this fact does not need to be registered. But the agent must register himself as carrying on the business.

CHINA.

In China there are forty eight treaty ports, where foreigners are privileged to reside for business purposes under the jurisdiction and the protection of the law courts of their respective nationalities. The principal of these are Shanghai, Tientsin, Hankow and Canton. Hongkong is a British possession with its own laws and regulations. Foreign companies are permitted to incorporate in treaty ports under the laws of the predominant nationality of their investors and personnel. Here the numerous American state laws prove a stumbling block, and the desirability of a Federal incorporation law for concerns engaged in foreign business exclusively appears very desirable. Many American firms incorporate for China under the liberal Hongkong law, but they are then compelled to transact their legal business in British courts and look to British diplomatic officials for support. The Chinese rather distrust the American state charters, and in fact no American state incorporation law fully meets Chinese requirements

COLOMBIA.

Foreign partnerships and companies must register within six months after commencing business operations within the limits of the republic of Colombia. They must appoint an agent resident in Colombia in charge of their branch in Colombia. His power of attorney must be filed.

CUBA.

Foreign companies and partnerships may trade freely in the Republic of Cuba, but must register full information about their composition, constitution, balance sheets (in case of companies), boards of directors, shares of stock, etc.

CZECHO-SLOVAKIA.

This important new commonwealth, risen from the ruins of the Austro-Hungarian Monarchy, has not yet enacted legislation dealing with incorporations and the opening of branches of American firms. It is the tendency in young countries to apply the laws of the superseded sovereignty insofar as they are not repugnant to the spirit of the people, and the somewhat liberal law of Austria with regard to the right of foreigners to trade freely, after registration, will doubtless he retained for the present and be followed by one not less liberal.

DENMARK.

A new law has just been promulgated on the subject of incorporations and of branches of foreign firms. Details of this law have not yet been received in the United States at the time of the publication. Under the old law a foreign company could not establish a branch in Denmark, but was compelled to appoint a Danish subject as agent, registering all details. The Danish agent carried on the business in his name.

ECUADOR.

Foreign stock companies cannot appoint lawful agents in Ecuador without the sanction of a judge of the Commercial court.

In order to incorporate under the laws of Ecuador, the entire stock capital of the company must be subscribed. The incorporation must be approved by the judge of the Commercial court. In case of a company undertaking to do a banking business, it must be subject to the national banking laws. An executive authorization is required for all incorporations. The authorizaton must be published in the press.

FINLAND.

The regulations of the Russian Empire prevailed in Finland until it became an independent republic subsequent to the outbreak of the revolution in Russia. There is as yet no news in the United States with regard to legislation affecting the incorporation of foreign companies, the establishment of branches by foreign firms, etc.

FRANCE.

The French law with regard to companies and trading partnerships was described in the author's pamphlet on Commercial Laws of France (Archibald J. Wolfe, *Commercial Laws of England, Germany and France,* Department of Commerce, Special Agents Series No. 97). The analysis given therin still holds good, but for the question of company taxation, which is bound to change from time to time, in accordance with the budget policy of France in connection with the raising of revenue for the extraordinary needs of the nation.

The law recognizes three principal kinds of trading associations in France: (1) The ordinary partnership with a firm name (la société en nom collectif); (2) the limited partnership (la société en commandite); and (3) the joint-stock company (la société anonyme).

The ordinary *partnership* is composed of two or more partners, in which the partners are liable in solido for all the debts of the firm. The firm name of the partnership is composed of the names of all the partners; thus, if the partnership is formed between Arnold, Duval, and Berger, the firm name would be "Arnold, Duval & Berger." For simplification it is ordinarily

written in abbreviated form, as "Arnold, Duval & Co." It would be fraud to insert in the firm name the names of persons not in the firm; this would, indeed, be giving the partnership a false name, and thus securing credit under false pretenses.

The partnership is established by an agreement between all of the members of the firm, either by a formal deed drawn before a notary or by privately signed agreement.

In March 1919 a law was promulgated by the President of France providing for the creation of a commercial register within the jurisdiction of every commercial law court or civil law court. In the register shall be enrolled French or foreign tradesmen having in France either their principal establishment or a branch or agency; French and foreign commercial companies having a branch or an agency in France.

French or foreign tradesmen having their principal establishment in France shall observe the following procedure as prescribed in article 4:

Every tradesman shall request, within the month of the opening of his business, or of the acquisition made by him of a stock in trade, of the clerk of the court in the jurisdiction of which lies his stock in trade for his registration in the commercial register. The applicant shall remit to the clerk of the court a declaration in double, on unstamped paper signed by him. This declaration shall mention:

1. The family name and forenames of the tradesman.
2. The name under which he carries on his trade and, if there be need, his surname or pseudonym.
3. The date and place of his birth.
4. His original nationality, and in the case of his having acquired another nationality, the mode and date of its acquisition.
5. In the case of his being a foreigner, the date of the decree which shall have authorized him to reside in France.
6. In the case of a minor or a married woman the express authorization to trade given her in virtue of articles 67 and 69 of the commercial code.
7. The legal matrimonial situation of the tradesman in the cases mentioned in articles 67 and 69 of the commercial code.
8. The object of the trade.

9. The situation of the branch offices or agencies of the business in France or abroad.

10. The sign or name of the firm.

11. The family names, forenames, dates of birth, places of birth, as well as the nationality of the attorneys, with all the mentions prescribed by the provisions of 4 in the present article.

12. Commercial establishments previously managed by the declarer or those he manages within the jurisdiction of other law courts.

French, or foreign traders having their principal office abroad and a branch office, or an agency, in France, shall observe the following procedure as prescribed in article 8:

Any French of foreign trader having his principal office in a foreign country and a branch office or agency in France, shall, within the month following the opening of that agency or branch, have himself registered in the clerk's office of the law court in the jurisdiction of which that agency or branch shall be situated. His declaration shall contain every mention named in article 4 with the address of the place of his principal office.

Any foreign commercial company, which shall found a branch, or an agency in France, shall observe the following procedure as prescribed in article 9:

Before the opening of such a branch or agency, whoever shall direct it shall deposit in the clerk's office of the law court a declaration on unstamped paper in duplicate, signed by him and containing the amount of the sums or bills to be furnished by the shareholders and sleeping partners, his name, surname, date, and place of birth, original nationality, and in the case of his having acquired another nationality, the mode and date of its acquisition. Names, forenames, dates and places of birth, as well as the nationalities, of the managing directors or directors named during the existence of a company; of the members of the councils of supervision of limited liability companies, with all mentions prescribed in paragraph 4, article 4.

The following general dispositions are to be noted:

Traders and foreign companies having several branches or agencies in France shall not be subjected to the provisions of articles 8 and 9, save in the place where shall be situated the chief of such branches or agencies. In places where other

branches or agencies shall be, it shall suffice that the trader or company be mentioned in the commercial register under his or its name, firm style or denomination, with a reference to the commercial register of the principal establishment or of the central office.

The fee for an entry, or inscription, shall not exceed 1 franc.

The law provides penalties for giving inexact information in bad faith. These range from fines of from 100 to 200 francs, or imprisonment of from one to six months, or both. It will go into effect three months after the publication of the regulations of public administration of the law. Public administration regulations will fix conditions under which the present law shall apply to Algeria and the colonies.

The formalities of registration and publication above mentioned must be carefully observed, under penalty of nullity of the partnership.

In the Business Corporation (Société Anonyme) each of the stockholders is liable for the corporate debts only to the amount of his stock. It is an association of capital and not of persons like the ordinary partnership. Corporations and joint-stock companies in France are governed by the laws of July 24, and August 1, 1893.

To constitute a joint-stock company, the number of the incorporators must be at least seven. The joint-stock company must be constituted either by a deed before a notary or by an agreement under private signature, made in two originals. In order that the stock company may be validly constituted, it is necessary (1) that the capital of the company shall be fully subscribed; (2) that each stockholder shall have paid up in cash at least 25 francs per share if the amount of each share is below 100 francs, or a quarter of the stock subscribed for by him if the amount of each share is 100 francs or over.

The *limited partnership* is an association which comprises two distinct kinds of members. The one class is liable jointly and severally for the firm's debts. These are the full partners or partners under a firm name (en nom collectif). The other class, which is only liable up to the amount they have contributed

or promised, are the sleeping partners (commanditaires or bailleurs de fonds).

The association has a firm name. It comprises the names of the members who are jointly and severally liable. The names of the sleeping partners need not figure in the firm name.

The sleeping partners are members and not lenders of money. For that reason:

(1) They can at any moment verify the accounts and inspect the management of the association.

(2) They have the right to a share of the profits and not to a fixed interest; their returns therefore depend upon the prosperity of the association.

(3) If the association falls into bankruptcy they can not claim as creditors of the firm, for they are absolutely disinterested. If they were merely money lenders, they would be in the same position as other creditors.

(4) They can not contend, as against the firm's creditors, that the association is void. They can only invoke this defense against their co-partners, namely, the partners with unlimited liability and the partners with limited liability, i. e., the sleeping partners.

It is natural that the management be in the hands of those who undertake the responsibility. Thus the limited partnership must be managed by the partners with unlimited liability, or at least by one or more of them, unless a third person has been named in the articles of partnership. The silent or sleeping partner can not undertake any act of management. The reasons for this prohibition are: (1) The silent partner runs only a limited risk and, having the hope of unlimited profits, would be too greatly disposed to enter into adventurous enterprises, and (2) third persons would often be deceived, because they would count upon the personal and unlimited responsibility of the persons with whom they had directly dealt.

The *limited partnership by shares* is one in which the capital of the partnership is divided into shares or part shares. It is a variety of the ordinary limited partnership, the general rules of which are applied. It is also, however, subject to special rules.

The limited partnership consituted by shares is established either by a notarial deed or by agreement under private signa-

ture. When the agreement is under private signature it is not necessary (in contrast with the requirements in the case of the ordinary partnership or the ordinary limited partnership) that the document be drawn in duplicate original. Moreover, in order that the limited partnership constituted by shares may be validly formed, it is necessary (1) that the business capital be divided into shares of at least 25 francs when the capital does not exceed 200,000 francs, or shares of at least 100 francs if the capital exceeds 200,000 francs; (2) that the capital be entirely subscribed; (3) that each shareholder pay in cash up to the amount of the shares subscribed by him, when they do not exceed 25 francs or that he pay a quarter at least of the shares when the share is of 100 francs or upward. (Art. 1 of the law of July 24, 1867, as amended by the law of Aug. 1, 1893.)

The full subscription of the capital and the payment of the quarter are proved by a declaration by the manager in the form of a notarial document as in the case of the joint-stock company.

The contributions made otherwise than in cash and special profits are passed upon by the general constitutive meeting as in the case of the joint-stock company.

The limited partnership constituted by shares, like the limited partnership by proportional interest, is administered by the responsible members; that is to say, by the unlimited and full partners who sign the firm name.

The manager or managers are held personally, jointly, and severally liable for the debts of the partnership, and the shareholders are liable only up to the amount of their shares, provided they have not participated in the business.

Formalities Imposed Upon Foreign Corporations.

The foreign corporation which opens a branch establishment in France and conducts business there has all the rights of a French corporation. Its attorney or representative may be a Frenchman or a foreigner. Its managers may be foreigners and reside outside of France.

It has no special formalities to fulfill except the payment of the income tax. French corporations pay this tax of 4 per cent on the total interests or distributed dividends, but foreign cor-

porations need pay it only up to the amount of the taxable portion, namely, the amount which the registration*) of the company fixes as that part of the capital of the foreign corporation which is especially devoted to French business, and the tax of 4 per cent is levied upon the dividend or product from this share of capital (the taxable share). The formalities are as follows:

(1) The foreign corporation which wishes to do business in France must procure the preliminary acceptance by the Minister of Finance or his delegate, the Director General of Registration, of a special representative responsible for the payment of taxes for which the company is liable. This responsible representative is, as against the Treasury, the direct and personal debtor for the taxes of all kinds which may be imposed upon the foreign corporation. This responsible reprensentative must be French and, moreover, must be of a well-established financial standing. In fact a majority of corporations designates as their "responsible representative" one of the important financial establishments of Paris.

(2) The foreign corporation must deposit in the Registration Office:

(*a*) A certified copy of its act of incorporation and of its by-laws, with their translation into French. These two documents must be furnished in duplicate and be legalized by the French consul.

(*b*) A special undertaking of the company to pay the taxes and fines which may be levied. This document, the form of which is furnished by the Registration Office, must be signed by the persons who, under the terms of the by-laws, are empowered to obligate the corporation, and, if necessary, stamped with the corporate seal. The signatures must be legalized by the French consul. If the act of incorporation or the by-laws do not determine exactly which persons have the right to sign such obligation in the name of the corporation, it will be acceptable to furnish

*) The word "registration" used in connection with the registration of corporations is not used in the sense of the word "registration" in American law. The French "enregistrement" simply signifies the payment of the necessary tax at the Bureau of Enregistrement, the Stamp-Tax Office. The registration of companies, therefore, is a purely fiscal question. This is none the less the case because registration takes place in connection with the income or dividend tax. The by-laws and act of incorporation must be filed at the Bureau of Enregistrement in the original language and in French translation.

a resolution of the board of directors authorzing and designating an officer of the company (president, secretary, or treasurer) to sign the above-named document. The designation of the "responsible representative" must be made at the end of this undertaking.

(*c*) The special undertaking of the "responsible reprensentative" who undertakes to pay the taxes and fines which may be due by the foreign corporation.

(3) At the end of the first year of doing business the Registrar's Office demands an affidavit from the secretary or treasurer of the company, which affidavit reports the particular amount of business done by the corporation in France. The Registrar's Office, on the advice of the Commission on Movable Securities, basing itself generally on the proportion between the total business of the company and the business done in France, fixes then the taxable share of the capital which may be considered as devoted to French business; that is to say, that part of the total capital of the company on the income of which the tax of 4 per cent is imposed.

It may be remarked that the Registrar's Office, the tax receiver of the Bureau of Foreign Corporations, then demands a new affidavit stating the dividends distributed since the corporation opened its branch establishment in France. The company must then pay the tax of 4 per cent on the part of the dividend which is derivable from the portion of the capital invested in France.

Let us suppose, for example, an American corporation having a capital of $200,000. If, after the deposit of the documents indicated above, the registration determined that the quarter of the total capital ($50,000, i. e., 250,000 francs) is to be considered as the capital specially devoted to French business (the taxable share) and if, on the other hand, the profits from this portion of the capital were $10,000 (50,000 francs) the income tax of 4 per cent on these 50,000 francs would be 2,000 francs.

If the company shows that there was no dividend distributed, it has nothing to pay unless fraud is proved and it becomes evident from the business done in France by the company that a dividend must logically have been earned.

Documents to be furnished by the foreign corporation wishing to do business in France are as follows:

Certified and legalized copy of the by-laws of the corporation.

Certified and legalized copy of its act of incorporation.

Undertaking of the company to pay the taxes in France according to a certain form to be signed by the persons who are authorized to bind the corporation either by virtue of the by-laws or of the statute. (Not necessary to legalize.)

Information on unstamped paper by the directors of the company concerning the profits of the last five years and on the business done in that time. (This information is demanded by the Registrar's Office to fix the amount of the taxable share.)

The appointment of the responsible French representative chosen by the company (named in the undertaking above).

Resolution of the board of directors concerning the capital devoted to French business (according to the form furnished).

GERMANY.

The republic of Germany has inherited the legislation of the German Empire, but new legislation may be confidently expected to supersede it. All foreign companies have the right of trading in Germany, but must register in the Register of Commerce. All powers of attorney must be registered. The taxation was very heavy even before the war. It will be exceedingly heavy after the signing of the peace. Under the peculiar conditions of German reconstruction it will be inadvisable for any foreign company either to incorporate under German laws or to establish branches, as the business of such branches will be inevitably subject to the great strain of domestic taxation.

The German Imperial Law was very liberal in affording foreign firms the right of trading in Germany. An analysis of this law was given in the author's work on Commercial laws of Germany, (Archibald J. Wolfe, Department of Commerce, Special Agents series No. 97).

Any foreign individual, firm, or corporation desiring to do business in Germany through the establishment of a branch must

comply with the provisions of the Commercial Code requiring registration of the branch in the commercial registry kept in the custody of the jurisdictional court. The registration of such a branch does not free the individual, firm, or corporation in question from the obligation to deposit security for costs in suits brought against persons or firms in Germany. If the concern establishing such a branch be a partnership or corporation, proof must be made of the nature of such partnership or corporation and certified extracts from the partnership agreement, certificate of incorporation, and by-laws, respectively, must be filed. If the branch be an agency not in the legal but in the popular sense of the word; that is, if some person or firm in Germany carries on the agency in his or its own name, such agent is personally subject to the requirements relating to registration, but the foreign firm, since it is not the owner of the branch or agency, will not be considered as doing business directly in Germany and will not be required to be registered.

Any person or persons, including firms and corporations, whether domestic or foreign, may do business in Germany in any of the corporate forms provided by German law, of which the Aktiengesellschaft (stock company) and the Gesellschaft mit beschraenkter Haftung (limited liability company) are the two most popular forms. There are no restrictions as to nationality nor as to residence so far as the stockholders or shareholders are concerned.

The Aktiengesellschaft, or stock company, is the nearest German equivalent to the American business stock corporation, and is represented by a Vorstand, or board of directors, and controlled by an Aufsichtsrat, or board of supervisors, but it does not possess a president, secretary, and treasurer designated and elected as such. This form of company is subject to the provisions of the German Commercial Code referring to Aktiengesellschaft.

The *"Gesellschaft mit beschraenkter Haftung"* or Limited Liability Company, may be described as a cross between an American business corporation and a partnership, partaking as it does of many of the characteristics of both. In contemplation of German law it is an artificial person or juristische Person and

has an existence of its own separate and distinct from that of its founders and shareholders, and is therefore a body corporate. This corporate form is much simpler than the Aktiengesellschaft, or stock company. Its capital is not divided into shares, and no certificates of stock are issued. Individual interests or holdings in the company may be transferred in whole or in part by notarial or judicial act. It is represented in all matters judicial or extrajudicial by one or more business managers, or Geschaeftsfuehrer, who need not be otherwise interested in the company. It has no board of directors or board of supervisors, although it is permissible to appoint a board of control, somewhat analogous to the stock corporation. The liability of the members is strictly limited to their subscribed holdings, and full payment of such holdings eliminates all further liability. Other persons, firms, and corporations may be founders and shareholders, whether German or foreigners.

In general this corporate form is decidedly the simplest and best for branches of American enterprises in Germany. In German law it is a German company like any other, and is not subject to the requirements concerning security for costs; in matters of taxation, also, it has independent standing and it is liable only to such taxes as are warranted upon the basis of its earnings shown by the annual balance sheet.

The German laws make no distinction between foreigners and German subjects in their capacity of being party to a lawsuit, for every one who has rights at law can be a party to a lawsuit. The German laws consider every living person capable of being a party to a suit, and, in addition, certain institutions or entities endowed with the rights of artificial persons. Among these are the State, Provinces, communities, many public institutions such as savings banks, universities, and certain ecclesiastical orders; practically all commercial companies, including stock companies, limited-liability companies, co-operative institutions, insurance associations; and, finally, associations or societies which, through entry in the German Associations Register, acquire legal rights.

A society or corporation not so registered can not sue or be sued as such. A co-partnership, that is, a combination of two

or more business men for the carrying on of a commercial enterprise under a firm name, can sue and be sued; an individual business man who has adopted a firm name can sue and be sued under the name of his firm.

GREAT BRITAIN and DEPENDENCIES.

There are no special laws in England applicable to the establishment of business agencies or branch establishments in the case of firms or individuals wishing to do business in England. But a statement of the names and addresses of the partners in a partnership may be compelled by any litigant, and service on one member of the firm or upon any person having control or management of the partnership in England is sufficient to give the court jurisdiction over any property of the partnership in England.

American corporations having a place of business in the United Kingdom are required, within one month of the establishment of such place of business, to file with the Registrar of Companies a certified copy of their charter or articles of incorporation and by-laws, a list of the directors of the company, and the names and addresses of one or more persons resident in England to accept on behalf of the company service of process and of any notices required to be served on the company. Notice of alteration of any of the above matters must also be filed. Service of any process or notice by mail to such person and addresses is sufficient.

Each year the company must file with the registrar such a statement of its affairs as an English company must file, including (in the form of a balance sheet duly audited by the company's auditor) a summary of its capital, its liabilities, and its assets, giving such particulars as will disclose the general nature of the said liabilities and assets and how the values of the fixed assets have been arrived at, but need not include any statement of profit or loss.

Failure to comply with these regulations involves liability of every officer or agent of the company to a fine not exceeding £50, or in case of a continuing offense £5 for every day of

default. Only a fee of 5s. is required to be paid on registration.

Foreign companies and firms are taxed in the same manner as English companies for income tax upon the amount of annual profits or gains received from any property within, or any profession, trade, employment, or vocation exercised within the United Kingdom. There is no other tax on business done. They pay rates and taxes in the same manner as individuals to the municipality in which they are domiciled.

In Australia and New Zealand foreign companies and firms establishing branches are required to register. In South Africa it is preferable to form a special company under local laws, in order to avoid taxation on the capital and the profits of the parent company. There are no registration requirements in India.

GREECE.

Foreign companies can trade in Greece as Greek firms. They should be registered. Companies with headquarters in countries which do not grant free rights of trading to Greeks have no standing in the Greek courts as litigants.

HAITI.

In order to establish a branch in Haiti, an American firm must comply with the following formalities: a) obtain a license from the President of the Haitian Republic, b) a certificate from the Conseil Communal in accordance with the tariff in force.

The petition for a license must be directed to the secretary of state for Finance and Commerce (Secrétaire d'Etat des Finances et du Commerce). On receipt of the license, application must be made direct to the Conseil Communal for a certificate. The license is indispensable for the carrying on of any business or profession, and is very rarely refused. Both the license and the certificate (patente) are renewable from year to year.

The Haitian law recognizes commercial partnerships, stock companies (société anonyme), partnerships with silent partners (société en commandite) and other forms of commercial association similar to those in use in France. A stock company cannot be organized without the express permission of the President

of the Haitian Republic. Partnership and incorporation acts must be submitted to the Tribunal of Commerce for registration and must be published by being posted for three months. If the partnership or company has several branches the same formalities must be carried out in each place. The data which must be published at the same time include the name and residence of the stockholders and partners, active and silent, value of shares and of individual investments (in the case of partnerships), the names of local managers and their signatures, and the decree of the President of Haiti authorizing the incorporation must be attached to the incorporation act.

GUATEMALA.

All foreign companies operating branches in Guatemala must register and file copies of their certificate of incorporation with full details.

HOLLAND (see Netherlands.)

HUNGARY.

All branches of foreign firms must register before the Tribunal of Commerce. Similarly all powers of attorney must be registered before the Tribunal of Commerce.

ITALY.

All firms and companies whose headquarters are out of Italy are considered non-Italian. If their registered offices are located out of Italy, they escape the numerous irksome regulations of the Italian laws relating to companies, to which they are otherwise subject. Foreign companies must register and publish the memorandum of incorporation, articles of incorporation, balance sheets, with the names of directors abroad and of managers in Italy and with fullest details regarding capitalization, the nature of business, etc. The foreign companies are subject to a tax upon that portion of their capital which is used to carry on business in Italy.

JAPAN.

All partnerships carrying on business in Japan must register. All foreign companies opening branchès in Japan must register full details of their capitalization and incorporation and appoint a resident agent with a power of attorney. If the principal business of a company lies in Japan it is considered subject to regulations of Japanese companies.

The Japanese law recognizes the following forms of commercial associations:

Gomei Kaisha, or an ordinary partnership.

Goshi Kaisha, or a partnership with unlimited liability for working partners and a limited liability for sleeping partners.

Kabushiki Goshi Kaisha, or a joint-stock partnership.

Kabushiki Kaisha, or a public limited liability company.

Foreign companies are not permitted to take advantage of being foreign, in order to escape the provisions passed for Japanese companies. They must show the existence of their principal offices. They must also show the character of their representation in Japan, produce the articles of incorporation or a copy of the partnership contract duly legalized by a Japanese consul in the land of their origin.

The Japanese Commercial Code provides as follows:

If a foreign commercial entity establishes a branch in Japan, registry and publication thereof must be made in like manner as of an entity of the same or similar nature created in Japan.

A foreign commercial entity establishing a branch must also designate a representative in Japan, and register his name and address at the time of registering the establishment of the branch.

JUGOSLAVIA.

This important new commonwealth will doubtless follow the laws of Serbia (which see), as it is in effect a Greater and a United Serbia.

MEXICO.

Foreign corporations and firms must file copies of their incorporation or partnership contract, certified by a Mexican con-

sul, with balance sheets and other data of financial character, and all powers of attorney granted to representatives in Mexico must be registered, having been previously legalized by a Mexican consular officer.

NETHERLANDS.

Commercial law in the Netherlands distinguishes three kinds of commercial companies viz: 1) "vennootschap onder een firma" (corresponding with a partnership in which all partners have full liability); 2) "commanditaire vennootschap" (corresponding with a partnership with ordinary partners and sleeping partners); 3) "naamlooze vennootschap" (corresponding with a company with limited liability or joint-stock company). All these commercial companies can only be established by a *written* deed. For the third mentioned an authentic notarial deed of association in required. Besides it is required for this kind of companies that the deed of association and the constitution are approved by the Queen. Whilst the partners of the companies mentioned under 1 and 2 are allowed to give their names to the company, the company with limited liability can not mention names of individuals in the company's name. The name of a company with limited liability has therefore to be derived from the nature of the business which it carries on.

If the deed of articles of association, which have to outline the purpose of the company and the means by which it intends to attain same, are not in conflict with the good moral, public order or the regulations of paragraphs 38 to 55 of the Netherland Commercial Code the Royal consent for the establishment of a limited company is granted. In case of refusal, the reasons are stated to the applicants. For every change in the memorandum or articles of association the Royal consent has to be applied for. The consent will not be granted if the persons who wish to establish the company do not represent together at least one fifth of the capital of the company.

NORWAY.

Foreign firms or corporations can not acquire land or real estate in Norway, or building and mining rights, or leases of 10

years' duration or over, not even through a trustee. They must register the fullest particulars of their partnership contract or incorporation and give full details of the management of their Norwegian branches.

PERU.

All foreign companies must register full details of the constitution of the firm and of the corporation and procure an authorization for the carrying on of business.

PORTUGAL.

If trading from a Portuguese address, all foreign firms and corporations should register. If opening branches or agencies, full details of the foreign corporation must be declared. A foreign corporation may be declared bankrupt for debts contracted in Portugal. When undertaking trading, manufacture or agricultural enterprises in Portuguese colonies, foreign firms must register in Portugal.

ROUMANIA.

The nationality of a foreign firm or corporation is deemed to be that country where the headquarters or the registered office of the enterprise are located. Roumanian laws are very severe in relation to branches and agencies of foreign concerns. A foreign firm or company must petition the Minister of Commerce before it can commence trading in Roumania. Four copies of the deeds to any properties which are to be held in Roumania must be fully attested and presented to the Prefect, Mayor, Chamber of Commerce in each district where a branch is to be opened.

Foreign companies must furnish complete evidence of incorporation and clearly specify the persons who are to sign for the company in Roumania. They must make a deposit of 20,000 lei with the State Bank of Roumania, unless engaged in building factories, working mines or banking operations. They must then register at the local chamber of commerce and take great care not to exceed the powers of their charter. They cannot own land.

RUSSIA.

Legislation is in a chaotic state.

SERBIA.

In order to open a branch in Serbia, a foreign concern must petition the Minister of Commerce. New company laws will be probably shortly introduced.

SPAIN.

Foreign companies operating in Spain are governed by the laws of their own country, but branches established in Spain must conform to the laws of Spain. Foreign corporations can not undertake the operating of tramways and railways in Spain.

The managers of such corporations must be Spaniards. There are no restrictions of trading by foreigners.

SWEDEN.

An authorization is necessary to open a branch of a foreign firm in Sweden. A deposit with a bank in Sweden equal to three years' taxes is required. For operating mines and working up raw materials a special authorization is required. It is necessary to appoint a native resident agent or a foreigner who had already been authorized to trade in Sweden. The foreign firm or company must sign an agreement to submit to Swedish jurisdiction in all matters appertaining to Swedish business.

The Swedish law recognizes the following forms of commercial partnership and companies:

Handelsbolag—a private partnership with unlimited liability of partners.

Kommandit-bolag—a partnership with unlimited liability of working partners, while the liability of the "Kommandit" partner is limited to his investment.

Aktiebolag—stock company; must have at least 5 incorporators who must be Swedish subjects resident in Sweden.

Minimum stock capital is 5000 Swedish crowns. Every share must be fully paid in 2 years. One half of the capital

must be paid in at the time of the incorporation. The application must state the object of the company, give the value of the share, mention the seat of the board of directors, and the directors must be Swedes residing in Sweden.

SWITZERLAND.

In each Canton of Switzerland there is a commercial register for the registrations prescribed by the Code of Obligations or by other Federal laws.

The authorities charged with the tenure and supervision of the commercial register are designated by the cantonal laws. Each Canton is free to institute special registers by districts and to confer the tenure and supervision thereof upon special officers.

The Federal Council prescribes by regulations the organization, tenure, and control of the commercial registers, the procedure to be followed in the matter of registration, the fees to be paid, the procedure for appeal, and the organization of the Official Journal of Commerce.

Every person capable of contracting has the right to have himself registered in the commercial register of the place where he lives.

Every person who carries on business under a special trade name or style has the right to register such name on the commercial register of the place where he has his principal establishment, and wherever he has branches, provided he is registered at the principal place.

Every person who carries on business, operates a factory, or exercises in a commercial way any industry whatever, is bound to register himself on the register of the place of his principal establishment and wherever he has a branch.

In all registrations the Christian names in full, residence, place of birth, and in the case of foreigners, nationality, must be added whenever any surname is inscribed; and the occupation of the members of boards of directors or similar bodies must also be stated.

Whoever is alone at the head of a house, without having a

general or special partner, can not adopt as his trade name or style any but his family name, with or without a Christian name. He must add nothing thereto which indicates a partnership or corporation, but it is permissible to add other indications of a nature to designate more precisely his person or the nature of his business.

When a trade name or style is registered on the commercial register it can not be used in the same locality by anyone else, even if he personally bears the same name. In such a case the second person must add something to his name which clearly distinguishes him from the style already registered.

The name or style of a general partnership must include the names of all the partners, or at least the name of one with an addition indicating the existence of a partnership.

The name or style of a general or special partnership must contain no name other than that of the general partners, nor can it characterize itself as a stock corporation, even though the partnership capital be, in whole or in part, divided into shares. When a partner in a special or general partnership ceases to be a member of the firm his name can not be continued in the firm name, even with his consent or that of his heirs.

The foregoing provision as to firm name apply to the successor of an existing establishment. He may, however, indicate in his style to whom he succeeds, if he is expressly or impliedly authorized by his predecessor or the heirs of his predecessor.

The object of the foreoing provisions of the Code of Obligations is to enable anyone to tell at a glance and without hesitation whether he is dealing with an individual, a partnership, or a company.

Registration of Foreign Branch Houses.

On or before the 1st of July of each year there must be filed in the registry office a list of all the members of the managing board of stock companies, boards of supervision of limited partnership associations, and boards of directors and boards of supervision or limited partnership associations, and boards of directors and boards of supervision of foreign juristic persons having a branch in Switzerland, the list to be signed by the pre-

sident. Such list must contain the surname and first name. place of birth, and, in the case of foreigners, nationality, occupation, and residence of each member of the board. These lists are public records, which can be consulted without charge and certified copies obtained for a nominal fee.

Establishing a Branch Office in Switzerland.

American business firms may establish branch offices in Switzerland without any special formalities. They must merely apply for registration in the commercial register, which is granted without trouble, and under the same requirements as for Swiss firms, registering and publishing all details concerning organization, capital, and management which may be of importance to creditors and other third parties. A foreign company which has been legally incorporated in its own country is governed by its certificate of incorporation and by-laws (memorandum and articles of association), these being recognized by Swiss law, provided certified copies are filed in the register. The names and signatures of persons authorized to act or sign in Switzerland on behalf of a foreign firm or company must be filed.

Branches of American concerns are taxed in the same manner as Swiss firms. Tax regulations differ from Canton to Canton, but only such capital as actually is invested in Switzerland forms the basis of taxation. The home capital and assets of a foreign firm with a Swiss branch are not subject to taxation.

Powers of Attorney.

Powers of attorney are required under the Federal and cantonal laws of Switzerland and are demanded by Swiss lawyers representing foreign litigants. No particular form is prescribed by law, but the power of attorney should specify clearly the intention of the donor, the subject matter involved, the names of the parties, including that of the donee of the powers, and the time and place of its execution. If executed on behalf of a corporation or other juristic person, it should show the author-

ity of the person signing it, and his signature should be properly legalized.

It is advisable, therefore, where a power of attorney is executed on behalf of a partnership or body corporate, to have the notary public or a Swiss consul, who legalizes the signature of the person or persons executing it, certify that he has seen the articles of partnership or the by-laws of the corporation, as the case may be, and that the person or persons signing are duly authorized to execute the power in the firm or corporate name and that such execution is binding thereon. This may also be accomplished by including a recital of these facts as to the authority of the person or persons signing it in the power or letter of attorney.

If the case may require it, the power of attorney should be executed in duplicate or triplicate and should be acknowledged before a Swiss consul or before a notary public, and the latter's signature, or else the signature of the county clerk certifying to the genuineness of the notary's signature, should be legalized by a Swiss consul.

The Code of Obligations recognizes six kinds of business association:

1. The simple partnership (Einfache Gesellschaft; société simple).

2. The general partnership (Kollektiv-gesellschaft; société en nom collectif).

3. The limited partnership (Kommandit-gesellschaft; société en commandite).

4. The stock corporation (Aktien-gesellschaft; société anonyme ou par actions).

5. Limited partnership association (Kommandit-aktien-gesellschaft; société en commandite par actions).

6. The co-operative society (Genossenschaft; société cooperative).

URUGUAY.

All branches of foreign firms or companies must register, and all powers of attorney must likewise be registered. There are otherwise no restrictions.

VENEZUELA.

All foreign firms operating in Venezuela must register. Life insurance companies intending to operate in Venezuela must invest $120,000 gold in landed property in Venezuela.

3. Licenses for Commercial Travelers.

In a number of foreign countries, particularly in Latin-America, commercial travelers soliciting business for foreign concerns are subject to more or less heavy taxation, national as well as municipal. In several countries the practice persists of collecting duty on samples carried by commercial travelers even if they have been rendered valueless.

As these license fees change from time to time, it is inexpedient to attempt to publish them here, but the Bureau of Foreign and Domestic Commerce keeps a current file of these regulations. Where a foreign house maintains a local agency or branch it is well to attach the visiting traveling salesman to such a branch for the time of his activity. This is in no sense an attempt to evade the laws or regulations of foreign countries, but the local agency or branch pays its own taxes for the conduct of its principal's business, and the visiting traveling salesman's activity being generally intended to supplement the branch's efforts, the principals may fairly take advantage of the situation.

Efforts are being put forth in the United States to induce Latin American countries to accept treaties providing for a single license fee to be paid by commercial travelers in each country, in place of numerous local fees and for the refund of duties on samples, if re-exported within 6 months. The signatures of Uruguay and Panama have been secured and other countries are coming into line. While the practices in relation to the collection of license fees from foreign traveling salesmen are most irksome in Latin-American countries, amounting in Argentina, for instance, to a hardship, even some of the European countries either impose or contemplate imposing (as in France) taxes and registration regulations upon the activities of foreign commercial salesmen.

4. Adjustment of Disputes and Recovery of Debts.

In the following lines it is the aim of the author to suggest to the credit man a few methods or procedure in connection with disputes and overdue accounts in foreign countries.

While in charge of the credit department of a national organization serving the interests of a large number of American manufacturers and exporters, the author had occasion a number of years ago to deal with an extraordinary number of claims of American manufacturers against foreign concerns, and he found it necessary to organize a debt recovery service to deal with them.

He had at his disposal the following machinery: banking correspondents and special representatives who furnished his organization with credit information. This network of correspondents covered all the commercial centers of the world. His legal advisers were in most cases the attorneys of the banking correspondents in various foreign cities.

The claims—to the number of several thousand—which passed through his hands could be roughly divided into the following classes:

1. Disputes which could be settled only through arbitration or litigation, the defendants being respectable houses, and the disputes involving a radical but honorable difference of opinion.

2. Disputes due to the manufacturer or exporter being at fault.

3. Disputes due to a misunderstanding on the part of either party.

4. Disputes due to artbitrary acts on the part of a foreign state.

5. Open accounts overdue to temporary embarrassment of the debtor.

6. Drafts not met for various causes.

7. Bad debts due to dishonesty of the debtor.

8. Accounts against insolvent debtors.

It must be mentioned for the benefit of the credit man that the best way of dealing with foreign debts is to keep out of litigation. In the most advanced foreign countries there is no danger of discrimination in commercial courts against the interests of a foreign litigant. In many backward countries such a danger emphatically exists. Litigation is not desirable even at home, but where the suit must be brought at long range there is every reason to seek settlement out of courts. Litigation abroad is more or less expensive. American litigants in foreign courts are frequently called upon to put up heavy bonds, particularly in appeal cases. Foreign lawyers are debarred in many countries from accepting business on a contingent basis.

In the case of disputes which involve divergence of opinion, it must be assumed that the indebted party is an honorable house. If the creditor has an agent or representative at the domicile of the debtor, the case is simplified in that the representative can use his judgment in coming to an arrangement with the debtor or use such legal machinery in behalf of his principal as is available.

If the creditor has no such agent or representative, he may turn to his bank and put all the facts before it and ask that the attorney for the bank's correspondent be entrusted with the negotiations, handling the matter in such a way as to arouse no ill-will in the debtor, but taking it up with the debtor as an unfortunate misunderstanding in which both sides have to come to some agreement.

In the case of disputes where the manufacturer is at fault and does not know it, he must try to study the case objectively and acknowledge his error and make such concessions as will straighten out the tangle.

In case of misunderstanding a bank and its correspondent at the domicile of the debtor may straighten out the trouble.

Occasionally a foreign state government will arbitrarily release goods to a debtor who may take advantage of this and refuse to pay drafts. Here the intervention of the State Department may be invoked as against the state government in question, a somewhat undesirable, lengthy, but generally effective proceeding. Far better it is to place the matter in the hands of an organization such as the National Asociation of Manufactu-

rers, the American Manufacturers' Export Association, or an American chamber of commerce, if one exists at the domicile of the debtor. It is the author's belief that particularly the National Association of Credit Men, or a central credit clearing house, if one is ever established in the United States, could also diplomatically deal with such cases. If such unfair debtors realize that their tactics may injure their standing with the creditors in America, they will quickly come to terms.

In the case of open accounts overdue because of a temporary embarrassment of the debtor, it is advisable to draw on him, instructing the bank to protest the draft unless accepted for a reasonable time after sight. The bank's attorney may be instructed to proceed with such steps as are open in various countries for dealing with protested drafts.

Similar instructions may be issued in connection with drafts not met for various other reasons.

In the case of dishonest debtors the matter should be placed in the hands of an attorney with instructions to do his best to recover the amount due.

In the case of insolvency proofs of indebtedness should be furnished exactly as in the case of insolvencies in the United States and legalized at the proper consulate before being sent on to an attorney abroad.

How to get a reliable attorney abroad? Almost every consulate in New York has a legal adviser of its nationality located in New York, who may be consulted with regard to foreign laws.

American consuls cannot undertake the collection of overdue accounts, but will gladly furnish the names of reliable attorneys in the city where they are collected.

There are American chambers of commerce in several foreign countries who will on application furnish the names of attorneys in their vicinity.

Finally any American bank with foreign correspondents will write their correspondent for the name of a reliable attorney.

In many cases a conciliatory letter by the credit man will bring the desired results.

Any American organization of national importance can establish a Foreign Debt Recovery Bureau in charge of an ex-

perienced and tactful manager, utilizing the machinery of banking in order to place himself in touch with a network of attorneys abroad who will in case of necessity act for the Bureau in collecting overdue accounts. But the personal intervention of such a Bureau—if tactfully and diplomatically managed—will collect at least 50% of accounts, where the debtor is a firm of some responsibility.

Mention may be made here of important steps undertaken by the Chamber of Commerce of U. S. A. and by the Tanners' Council to instal adequate machinery for the settlement of disputes by arbitration.

It is to be hoped that these steps are but a beginning of a widely ramified and standardized method of the setttlement of commercial disputes between American and foreign business firms. There may be two varieties of such disputes: the first requiring expert opinions and adjudication by specialists in certain trades, and the second involving general commercial usage, either international or local. In the first instance the intervention of an organization such as the Tanners' Council in the leather and allied trades will be of great value. In the second instance, a well-established chamber of commerce will be doubtless the proper body to initiate arbitration proceedings at the request of the parties in dispute. In either case the parties must voluntarily submit to arbitration, and the points at issue will usually represent an honest difference of opinion, rather than an unwarranted or improper attitude on the part of either litigant. The more or less official standing and prestige of many foreign chambers of commerce is likely to assure substantial justice abroad, while the American chamber of commerce or industrial organization—though lacking in official standing—may be always relied on to bring to the solution of disputes of American firms with foreign concerns that fairminded and business-like attitude which is part and parcel of American commercial life.

Pending the development of such a comprehensive system for the settlement of disputes, the credit man, or the counsel of the corporation, will find it advisable not to await a sudden legal difficulty, but will try to secure, with the help of consuls, or of American chambers of commerce abroad, or of his domestic bank, if it has foreign relations, a list of reliable attorneys—one

at least for each country where the concern in question does an extensive business, and will make arrangements with such an attorney for attention to any claims, law suits or other matters, such as the proper filing of claims against insolvent debtors, or a thousand and one matters requiring the services of competent counsel which may develop from time to time. It is far better to have such connections before any trouble arises, than to seek them in an emergency. There is now hardly any country of commercial importance abroad which does not possess some lawyer of standing specially fitted to attend to American interests, even as in the city of New York competent lawyers may be found who are well versed in the laws of various foreign countries, and have reliable correspondents in their home country. These lawyers may be located through application to the respective consulates in New York.

CHAPTER XIX.

A. Official Trade Promotion.

1. *General Remarks.*

In Chapter II we briefly mentioned official trade promotion among the basic factors affecting the development of international commerce between an exporting country and the markets of the world. We now can take up for consideration in greater detail the principles which should govern official trade promotion, if it be intended to be efficient, and in particular the present methods of official trade promotion in the United States, with a view to the extent to which it meets the needs of the American business community.

The importance of commerce in general, and of international commerce in particular, to the welfare of an industrial nation is generally recognized by the assignment under various names of a special government department, under the guidance of a cabinet minister, to the safeguarding of the interests of commerce, while other departments, such as the State Department or Ministries of Foreign Affairs, with their supervision of the consular staff and co-operation with the diplomatic officers charged with the care of commercial interests, such as commercial attachés, and Departments or Ministries of Agriculture frequently assist the Department of Commerce in its proper work.

Granting the recognition of the importance of safeguarding and promoting the interests of a nation's commerce with other nations—a recognition which for various reasons came rather late in the day to the fore in the United States—there are certain principles which wisdom and practical experience recommend as proper to pursue in official trade promotion, others which wisdom and practical experience teach us to be unsuited to the needs of the nation.

It is utterly against the spirit of American business develop-

ment either to desire or to tolerate paternalism in official trade promotion. The American manufacturer and the American exporter can and should do their own selling. They do not require the government to help them individually to market their specific products. They would rather resent it. They do not expect, nor would they be likely to receive from the government such aid in meeting foreign competition which would tax other classes of population in giving them an unfair advantage over their foreign competitors, as the late German government did for its commerce in helping it to fasten its tentacles throughout the world.

There are certain things which official trade promotion is reasonably expected to do for the nation's commerce, and to do well, and in return the organs charged with official trade promotion must be adequately financed by the government to enable them to perform their work efficiently. But in all of these things the benefit of the business community at large, and of the nation back of it must be kept in view, and under no circumstances the interests of an individual firm or set of firms which may have gained the favor of these organs through cultivating their influence.

Nor must official organs attempt services to individual firms on an individual basis, if such services can be efficiently performed by existing commercial enterprises: for instance, they should not include in their activities the furnishing of credit reports to individual inquirers on the credit standing of individual foreign firms: we have efficient mercantile agencies for that purpose, and the machinery of the government must not be used for individual needs, without being instantly and publicly available for the entire business community. Or again the official trade promotion organs must not undertake the furnishing of translation services, or the securing of agencies for individual firms, or the placing of individual orders.

On the other hand the organs charged with the promotion of the commercial interests of a nation should gather and present in an accessible manner, efficiently, adequately, systematically and above all *promptly* information of statistical character, information on the needs in various markets for the exporting nation's products, data regarding tariff changes, taxation and all

other matters which the manufacturer and exporter cannot properly obtain on his own initiative, excepting in rare instances, but all this information must be available on equal terms to all those who are properly entitled to it. Finally official trade promotion should undertake special investigations of benefit to entire industries in their battle for foreign markets, it should maintain in all the strategic points of the world's commerce competent correspondents, it should be keenly alive to opportunities for the nation's commerce wherever it can compete, or enlighten it, if possible, on ways and means of attaining a competitive standing; it should give its services in a practical, prompt and liberal manner, free from any taint of red tape; it should keep in close touch with the organized business interests of the nation as expressed in national and local associations, periodic conventions and gatherings, it should be absolutely free from any alliance with politics; in dealing with any organization it should never lose sight of the fact that its facilities are intended for the benefit of the whole nation, and that, as stated above, the machinery of the government must not be used for the promotion of individual interests or schemes, excepting inasfar as these may benefit by official efforts freely presented to all truly concerned.

2. *The Activities of the U. S. Department of Commerce.*

The Department of Commerce is the executive department charged in the United States with the promotion of American trade interests in the world's markets, in addition to many other duties.

It maintains for that purpose a special section, known as the Bureau of Foreign and Domestic Commerce. Considering the short time this Bureau has been in existence it may be freely admitted to have reached a very high degree of efficiency. While minor criticisms may be found with its working—chiefly due to appropriations that are very inadequate—it may be said to be to-day the foremost and most efficient existing official organization for the promotion of a nation's commercial interests.

It is housed on several floors of the Building of the Department of Commerce in Washington under the headship of a chief and of two assistant chiefs, and maintains competently managed

sections for tariffs, statistics, trade opportunities, lists, etc.; a Latin-American, a Far-Eastern, a European and a Russian section; an editorial staff for the editing of its daily, periodic and special publications; it operates district offices in New York, Boston, Chicago, St. Louis, New Orleans, San Francisco, and Seattle, and co-operative offices in connection with the chambers of commerce and similar organizations in Cleveland, Cincinnati, Los Angeles, Philadelphia, Portland and Dayton.

In the foreign field it is ably assisted by permanent commercial attachés and traveling trade commissioners, formerly known as commercial agents. The commercial attachés are appointed by the Secretary of Commerce after an examination and are accredited through the State Department. Their duty is to investigate and to report upon such conditions in the manufactures, industries and the trade of foreign countries as may be of interest to United States. While the compensation of these officers is very inadequate, they have done work which has gradually increased in importance and bodes well for the future usefulness of this system. Commercial attachés have been appointed for Buenos Ayres, Copenhagen, The Hague, Lima, London, Melbourne, Paris, Peking, Petrograd, Rio de Janeiro, Tokyo.

Trade commissioners, formerly known as commercial or special agents, are charged with investigations in foreign markets for the extension of American manufactures. The results of these investigations are embodied in monographs, many of which are models of their kind and have excited the admiration of the business world at home and abroad. They are also appointed as the result of competitive examinations. On the whole the personnel of these commissioners (appointed for a special investigation from time to time) is fairly high grade, although, naturally enough in view of the low compensation and inadequate provisions for their maintenance while abroad some inefficient and incompetent men slip in occasionally.

The sections of statistics and of foreign tariffs are admirably equipped and up to the highest standard of efficiency.

The Bureau edits "Commerce Reports," a daily journal with contributions from consuls on a variety of topics. Occasionally special articles of trade commissioners are also published. "Commerce Reports" are sold on the basis of an annual subscription

within the reach of any firm or individual. It contains also a list of Foreign Trade Opportunities, for which it is claimed that they result in the opening of many connections with foreign countries and in the placing of many orders. It seems, however, that there should be no room in an official publication for such matters. The large portion of such inquiries are likely to prove worthless. There are regular commercial channels through which a person abroad can secure quotations from American manufacturers and exporters. After all it enables a foreign inquirer to receive an overwhelming mass of offers, only one of which he can accept, which means a great waste of effort or energy. Ordinarily his appeal to a government body for connections argues that the inquirer is in no great hurry and is not familiar with the regular commercial channels. There are, of course, exceptions to the rule. Far more important would be mentions of trade opportunities that come to the notice of consuls or trade commissioners and that would ordinarily escape the knowledge of American manufacturers and exporters, if such information could be cabled over and promptly disseminated. This, however, is a very minor criticism and "Commerce Reports" may be confidently described as the livest journal of official trade information in the world. It is provided with most valuable semi-annual indices.

The Bureau of Foreign and Domestic Commerce publishes from time to time special bulletins and handbooks on important subjects covering a wide range of subjects. These also are of great interest and are much valued by the business community.

The statistical publications issued by the Bureau of Foreign and Domestic Commerce are the Monthly Summary of Foreign Commerce of the United States, Commerce and Navigation of the United States, and Statistical Abstracts of the United States, the last two published annually. These statistical publications are also high grade in every way.

The list of publications of the Bureau shows 180 pamphlets in the Special Agents' Series, 81 Special Consular Reports, 82 reports in the Miscellaneous Series and 39 reports in the Tariff Series.

The Bureau of Foreign and Domestic Commerce must be given credit for progressive spirit and readiness to do whatever

the needs of the moment demonstrate as desirable; it did valiant work in thwarting German commercial plots abroad; it was very successful in combating the trade-mark piracy practiced in certain countries against American products, it intervened in the platinum shortage in 1917 and 1918, and relieved the situation through the services of its attaché in Petrograd; its work along the lines of promoting foreign trade education has been most helpful: apart from the fact that many of its publications have been successfully used as text-books on special subjects in foreign trade instruction, it has helped to shape the syllabus and the study-course of many institutions which have taken up this important subject. In the great emergency of the World War it furnished the War Trade Board, the Military Intelligence Department and the Shipping Board a wealth of statistical and other information, and its attachés abroad assumed at a moment's notice the task of acting as representatives for these emergency bodies, in addition to their many proper duties.

Its excellent work and ever improving services and readiness to keep in touch with the business world by attending conventions of representative commercial bodies, lending samples and other exhibits, addressing meetings of business men, etc. has brought about a marvelous change in the attitude of the business world to the activities of the Bureau and there exists at the present time a fine spirit of co-operation and mutual confidence between the man of business and the Bureau.

The entire staff of the Bureau, counting its attachés and trade commissioners, is slightly over 100.

3. *The U. S. Department of State and Foreign Trade Promotion.*

There is a great deal of misconception current in the mind of the average business man regarding the activities of the State Department in the promotion of foreign trade. It is generally known that the consular staff which is directly attached to the State Department is charged, among other duties of important nature, with the promotion of the interests of American commerce within the local sphere of the activity of the various consulates general, consulates and consular agencies. That the consuls are the

principal compilers of those reports which reach the American business world through the medium of Commerce Reports, a publication of the Department of Commerce, is likewise well known. The office of commercial attachés seems to indicate an overlapping of the activities of the State Department and of the Department of Commerce, and finally there exists in the Department of State a division known as the Foreign Trade Adviser's office, which again on the surface would seem to indicate a duplication of efforts by two important executive departments, but as will be pointed out below, this, indeed, is a misconception.

As a matter of fact there is no overlapping or duplication of work or effort whatsoever, and it is very important for the American business man to know just wherein the functions of the various branches of the State Department as relating to commerce consist. The impression lingering in many minds that the Foreign Trade Adviser's office is a sort of a vermiform appendix, a survival of the days previous to the creation of the Department of Commerce, is altogether inaccurate, and in the interest of justice to a very efficient organization and of general information, it is necessary to define the work of the State Department as distinct in its aims and immediate purpose from those of the Department of Commerce.

With regard to the consular officers under the State Department it may be stated that they are instructed to report regularly on commercial conditions within the sphere of their activity to the State Department. These reports are studied at the State Department because of the general bearing they have upon international commercial relations and are then passed on, after preliminary editing, to the Department of Commerce. The Bureau of the Foreign and Domestic Commerce, through its editorial staff, prepares the information for publication in Commerce Reports.

The consular officers of the United States are overwhelmed by private correspondence from American firms. In spite of being inadequately provided with help or with funds for postage expenses, etc., these officers, as a rule, manage to give each American correspondent that aid or advice which they can give without offending against instructions: they cannot undertake to give credit information on the standing of firms or undertake the col-

lection of accounts. Correspondence with consular officers might preferably be carried on through the State Department. In the interest of efficiency American business men should not apply direct to the consular officers for lists of names or other information which they can obtain through the Department of Commerce, or strain their good-nature and readiness to serve through imposing upon them laborious tasks unnecessarily.

Commercial attachés are strictly officers of the Department of Commerce, but are accredited to the embassies for the twofold purpose of increasing their prestige and of enabling them to come in contact with the authorities in the countries of their activity, which as a matter of courtesy and precedent can only be done through the Department of State.

The Foreign Trade Adviser's Office in the State Department does not undertake to furnish information to commercial inquirers in the United States, its activities being wholly for the benefit of the Department of State and other Departments of the Government.

The Department of State is responsible for the relationships of the American nation to foreign nations, and a great part of these relationships are economic or commercial. A recent committee for the British Foreign Office stated: "There cannot be a British foreign policy as regards commercial matters abroad separate from general foreign policy, of which it forms an integral and important part." This applies equally to the United States or to any other nation.

In discharging the duty of the Department of State in this connection the Foreign Trade Advisers' Office finds it necessary to keep constantly advised regarding every phase of American foreign commerce; and frequently to make recommendations for plans, or to secure modifications in plans, carried out partly through the Department of Commerce, the Federal Trade Commission, the Tariff Commission, and many other governmental bodies. In this way the Foreign Trade Adviser's Office actually does promote the trade interests of the United States incessantly and to a very important degree.

Although the Department of State is constantly dealing with a variety of commercial questions arising in all parts of the world, a majority of these questions are settled as matters of

routine, are treated in the incipient stage, and are never permitted to become questions of controversy serious enough to be discussed in the press. The functions of the State Department are to conduct the foreign affairs of the country, and it does not come into administrative contact with the business world. The Department of State is intended as a political rather than an economic department, but the tendency of the times has been to lead diplomacy into economic paths. Most subjects in dispute between nations are now predominantly economic in character. This is a condition which will be even more accentuated as the years go by. International competition will be henceforth the competition of organized nations rather than of industrial groups. The foreign affairs departments of every great nation must be thoroughly posted on economic subjects.

Many raw materials are essential for the maintenance of "key" industries. The control of certain materials gives a nation bargaining power. In order to use this bargaining power the Department of State must have a thorough insight into economic resources of other countries. For this reason the Department of State requires a Foreign Trade Adviser's office with a staff of trained economists, which equipment was introduced in our State Department only in the summer of 1919.

The economic boycott will be a weapon of the society of nations which under one name or another is bound to be organized. The use of such a weapon must be carefully studied by the State Department. The State Department must undertake the duty of faithfully and adequately representing the economic interests of the nation's business. The Foreign Trade Adviser's office reads the consular reports and collects information. The Bureau of Foreign and Domestic Commerce distributes it. The Section of Economic Intelligence in the Foreign Trade Adviser's office deals with the broad economic and commercial questions which arise in diplomacy, involving raw materials, tariff changes, immigration restrictions, banking and exchanges, the use and interpretation of statistics. The section is divided into departments dealing with five regions: the British Empire and Western Europe; Russia and Scandinavia; Latin America; the Far East; Central and Southeastern Europe. Three economists are attached to each section.

The Foreign Trade Adviser's office maintains an efficient library, an elaborate clipping and indexing service and a statistical division. It co-operates with every other department of the government which deals with economic questions. It keeps in touch with commercial associations such as the Chamber of Commerce of U. S. A., the Chemical Alliance, the Tanners' Council, etc. It aims to supply in the period of intense competition after the war an economic intelligence service comparable to the general staff of the army with its Military Intelligence Division. It does not undertake trade promotion in the direct sense of the word, which is a function most satisfactorily performed by the Department of Commerce, but aims to insure that before the State Department formulates a policy or initiates a course of action, every consideration involving American foreign trade shall have been presented in the most effective and scientific manner. Nevertheless indirectly it promotes America's foreign trade most efficiently.

In the matter of export restrictions, for instance, which prevailed during the war, when United States refused to ship goods needed by the merchants of a neutral country, and one of the Allies, competing with the United States in the neutral market, relaxed its restrictions, such fact was noted through the Foreign Trade Adviser's office and recommendations of a specific nature were made. Cases where America's trade is apparently injured or in danger are currenly reported and lead to action. The office tests the currents of neutral trade and watches the pulse of neutral opinion.

The complete list of functions which form the program of the Foreign Trade Adviser's office embraces the following fourteen points:

(1) To advise the Department of State with reference to:

(a) the bearing of any proposed policy of action on the commercial interests of the United States;

(b) the bearing on the foreign relations of the country of any economic policy, proposed for adoption by the United States; e. g., tariff changes, immigration restrictions, nationalization of industries, blacklisting, export restrictions, tonnage allocation, mercantile marine development, loans abroad, export associations, branch banks, concessions, etc.

(c) the position of nations or groups of nations with respect to the methods and effects of international economic competition and control; and

(d) the relation of specific aspects of international co-operation to the interests of the United States; e. g., problems arising from the League of Nations, inter-allied or international control of tonnage, foodstuffs, raw materials, etc.;

(2) To assist in the formulation of a national commercial policy;

(3) To prosecute comprehensive investigations;

(4) To prepare specific reports for the use of American representatives engaged in the negotiation of agreements with foreign nations;

(5) To prepare and keep up-to-date current compendia of economic information relating to various countries and to other special subjects;

(6) To maintain a foreign trade library and file in the State Department;

(7) To receive official communications from the Department of Commerce;

(8) To transmit communications from the Department of Commerce with reference to diplomatic or consular action for the promotion of trade;

(9) To prepare instructions for Consular officers and to act on communications from the Department of Commerce with reference to such instructions;

(10) To transmit to the Department of Commerce communications from American diplomatic and consular officers relating to foreign trade;

(11) To distribute to other appropriate official agencies of the Government the economic information which is communicated to the Department of State;

(12) To act on economic communications to the Department of State from unofficial bodies;

(13) To represent the Department of State at official and unofficial conferences devoted to foreign trade; and,

(14) To act in general as the economic agency of the Department of State.

4. *The War Trade Board.*

This important official body which was created to deal with the trade of United States with foreign countries during the eventful period of the national emergency in the World War exemplifies in its activities that wonderful resourcefulness which is the characteristic of the American people.

The Espionage Act which was passed June 15, 1917, gave the President of the United States authority to control exports. June 22, 1917, this control was placed in the hands of the Secretary of Commerce. On August 21, 1917, an Export Administrative Board was established which operated until October 12, 1917, when the War Trade Board was created by executive order.

The Trading with the Enemy Act, October 6, 1917, meanwhile gave the President authority to control imports and trading with the enemy. The war trade policy of the United States was to conserve the domestic supplies of the United States and the allied nations, to prevent trading with the enemy, and to conserve tonnage. The functions of the War Trade Board had the aim of isolating the enemy commercially and financially, to obtain essential supplies for America and her Allies and to help conserve ocean tonnage. The purpose of isolating the enemy was to restrict the power of the enemy to conduct the war and to destroy the world trade organization of the enemy's commercial interests. The War Trade Board sought to control enemy trade. It created the war trade intelligence service to determine the enemy status of firms and of goods, issued enemy trading lists, located enemy property in the United States and enemy stocks in neutral countries. It achieved most valuable results through its conservation and co-ordination policy in connection with exports and domestic needs. It secured relaxation of foreign restrictions in connection with essential needs of the country. It checked speculation and hoarding in numerous instances. It procured tonnage and bunker supplies. Its Bureau of Research and Investigations has been of inestimable service to the interests of American trade.

While not strictly a trade promoting, but a trade regulating body, the War Trade Board left an indelible impress upon American commerce during the period of its activity.

B. Foreign Trade Promotion Through Organizations of Nation-Wide Scope.

In the variety of expressions of public life in America, not so long ago it was felt that the interests of the business community, or rather the business interests of the nation were not

reflected with sufficient force and clearness. This led the business world of the American nation to seek a remedy for the unsatisfactory effects of this condition through associating in bodies of nation-wide scope. The results of these efforts at organization have been indeed of such a nature as to deserve a thorough study of the economist, the ordinary business man and in fact any patriotic American citizen interested in the commercial progress of the nation.

Among these organizations the following will form the theme of our consideration: the National Foreign Trade Council; the Chamber of Commerce of U. S. A.; the National Association of Manufacturers; the American Manufacturers Export Association; the Philadelphia Commercial Museum; the American Exporters and Importers Association; the Council on Foreign Relations and the Tanners' Council of U. S. A.

1. The National Foreign Trade Council.

The National Foreign Trade Council is an organization of about 75 leaders of finance, commerce, industry and transportation, representing all sections of the United States and all factors of American international commerce. The council was organized pursuant to a resolution adopted by the First National Foreign Trade Convention, held in Washington in May 1914. That was a critical time for domestic industry and commerce. The industrial productive capacity of the United States had developed to a point where it was capable of producing substantially more than was required for domestic consumption, and leaders of American enterprise saw that the time was at hand when the United States must embark upon a definite course of development of foreign trade, in order to provide sure markets for our surplus productive capacity, and so to stabilize domestic industry and provide against depression and hard times.

In order to consider the problems arising out of that situation, a National Foreign Trade Convention was called to meet in Washington the latter part of May, 1914, under the auspices of the American Manufacturers Export Associaton, the American Asiatic Association and the Pan-American Society of the United States. That Convention was attended by more than 400 delegates who represented a hundred industrial and commercial organizations from all sections of the United States.

The council has a membership composed of manufacturers, merchants, farmers and other producers of natural commodities, railroad and steamship men, bankers and others, representing all sections of the

United States and collectively standing for the general interest of all elements engaged in foreign trade. It is a national committee for the welfare of international commerce. Its members do not represent upon it their own companies, but serve as representatives of the particular class of business with which they are affiliated. Nor do members represent exclusively their own section of the country.

The members collectively reflect the interest of the various productive, commercial, transportation and financial elements in foreign trade, permitting a concentration of experienced judgment admirably adapted to yield conclusions and recommendations truly national in scope. The Council performs no commercial functions for its individual members that they do not share with thousands of others who receive its publications. The members support the work of the Council as a public duty.

In the execution of its duties the Council calls each year a National Foreign Trade Convention in which it invites the participation of all those interested in or connected with any phase of foreign trade, in every part of the country, as well as American representatives of American enterprise abroad.

The Sixth National Foreign Trade Convention which was held in Chicago in April 1919 was the largest in point of attendance of the series, and most thoroughly representative of the whole country, both geographically and industrially. The largest previous attendance was 1206 at the Fourth Convention held in Pittsburgh in January, 1917. At Chicago there were nearly 2000 registered delegates, most all of whom were actually in attendance. Delegates were present from 38 different states and there were representatives of 107 domestic Chambers of Commerce, and nearly all of the American Chambers of Commerce in foreign countries.

This Convention terminated with the adoption of a declaration constituting the most authoritative statement of the needs of American overseas commerce ever presented by the representatives of that commerce.

The latest expression of the patriotic and statesmanlike activity of the National Foreign Trade Council and of its leader and guiding genius, the public-spirited American leader of industry James A. Farrell, is to be seen in the magnificent plan just launched to secure an endowment of $1,000,000 for a school of foreign trade and commerce in connection with the university at Georgetown.

2. Chamber of Commerce of the United States of America.

The Chamber of Commerce of the United States is a federation of commercial organizations formed in 1912 "for the purpose of encouraging trade and commercial intercourse between the states, the territories and

insular possessions of the United States of America and with foreign nations, and of promoting co-operation between chambers of commerce, boards of trade, and other commercial and manufacturers' organizations of the United States, increasing their efficiency and extending their usefulness. It is intended to secure co-operative action in the advancement of the common purposes of its members, uniformity and equity in business usages and laws, and of the financial, commercial, civic and industrial interests of the country at large." This latter action is largely accomplished through the workings of a referendum system designed to meet the needs of the national chamber,.

Membership.—Every commercial or manufacturers' association not organized for private purposes is eligible for membership in the national chamber. Such organizations are of two classes—local or state commercial and business organizations whose chief purpose is the development of the commercial and industrial interests of a single state, city or locality; and local, state, interstate or national organizations whose membership is confined to one trade or group of trades.

In addition, persons, firms, and corporations who are members of any organization admitted to the national chamber are eligible for election as individual members.

The organization members now number over 1200 chambers of commerce and trade associations, with a membership of approximately 1,000,000.

The most important action of the Chamber of Commerce of the United States is to ascertain business opinion throughout the country upon the more important measures affecting commerce, for the consideration of those officials or legislative bodies that have power to put these measures into effect. This is successfully accomplished by the referendum.

The Chamber arranged an arbitration agreement with the Bolsa de Comercio of Buenos Aires, by which international commercial disputes may be expeditiously adjusted in a fair and impartial manner at small cost to the parties concerned, was the forerunner of similar agreements effected or about to be effected with nationally representative commercial organizations in Uruguay, Brazil, and Ecuador. This system of arbitration promises to extend to other fields than Latin America and is a distinct contribution to foreign-trade development.

At the forty-seventh meeting of the Board of Directors in St. Louis in April, 1919, a reorganization of the work of the Chamber was decided upon to include the following seven divisions: Industrial production, domestic distribution, finance, foreign commerce, transportation, insurance, civic development.

The Chamber is convening a national trade conference in Atlantic City, scheduled for the end of October, 1919, which will be also attended by many foreign economic delegates. An important program has been arranged.

3. Other National Organizations.

a) *The National Association of Manufacturers of the United States of America.*

The National Association of Manufacturers of the United States of America is an organization established twenty-five years ago and charged by its founders with two especial duties, namely, the promotion of industry at home and the encouragement of trade with all other lands.

In carrying out the second of these duties the Association sent commissioners of its members and also special commissioners to many countries to study their trade possibilities and the reports of these investigations were issued in pamphlet form and widely distributed. These reports stimulated that direct interest in export trade on the part of manufacturers which has continued to grow ever since the founding of the Association in 1895. At the same time the Association began the building up of a service department for those interested in foreign trade. This Foreign Trade Department of the Association is widely known at home and abroad for its effective work in aiding the exporting manufacturer and foreign merchant.

In order to carry on this work promptly and efficiently the Association maintains on the staff of its Foreign Trade Department a large corps of experts who have had practical experience in the various branches of foreign trade abroad and at home.

The Foreign Trade Department is divided into the following divisions: The Latin-American, the Russian and the Far Eastern.

Each of these divisions is in charge of one or more persons having had long experience in the commercial and financial affairs of the regions mentioned. Other parts of the world are looked after by other members of the staff who are natives of various countries. The Association also maintains in its Foreign Trade Department highly efficient bureaus for transportation, credit information, trade marks, compilations and general importation.

The work of the Foreign Trade Department is supplemented by the services of nearly three thousand correspondents located in every city and town of commercial importance throughout the world.

The Association, through its Foreign Trade Department and other channels also issues periodicals and other matter in book or pamphlet form for the information and benefit of those interested in world trade in all lands whether the manufacturers, exporters, importers, dealers or students. Among them are:

A monthly magazine for circulation in the United States, a number of pages of which is devoted to foreign trade and financial matters relating to commerce. Four monthly magazines printed respectively in

English, Spanish, French and Portuguese, especially for circulation in foreign countries. A volume issued periodically in bound form and carefully indexed in six languages for the especial benefit of the importer and dealer abroad who desires to learn the names of leading makers of any manufactured article in which he may be interested. A confidential bulletin issued twice a month, affording reputable business men abroad the means of having their wants brought directly to the attention of American makers of their goods, without charge to themselves.

Special foreign trade bulletins and pamphlets giving authoritative information regarding the commerce and trade possibilities of various countries.

Exhibits and pamphlets showing through facsimile illustrations the various documents necessary in the handling of an export order, especially for the use of students and beginners in export trade.

Among the various activities of the National Association of Manufacturers along the lines of foreign trade promotion we may mention the following: the establishment of sample warehouses abroad, reciprocity conventions and foreign trade conferences, export tours of American ports, the entertainment of foreign business men and officials visiting United States and facilitating their missions.

b) *The American Manufacturers Export Association.*

The American Manufacturers Export Association, which was incorporated in 1911, occupies an unique place in the world of commerce; it is the only organization of its exact nature, and its work is endorsed by the United States Government and the leading manufacturers of this country. It is co-operative in all of its phases; it has nothing to gain beyond the furtherance of its original pledge to foster and promote the business and commercial relations between American manufacturers and foreign nations. This Association was very largely instrumental in creating and bringing to a successful culmination the National Foreign Trade Convention held in Washington in May, 1914, which attracted attention all over the world and which was conceded to be the first practical movement of its kind and the most representative every carried out. It has also since co-operated with the National Foreign Trade Council in its later meetings and activities.

The Association is in close touch and constant communication with the United States consular representatives abroad, the important Chambers of Commerce and other commercial bodies in all foreign countries, in which direction likewise the policy of mutual co-operation exists. It also possesses its own correspondents throughout the world. The Association maintains an office in Washington with a competent official in charge.

The Association has taken an active part in promoting the best interests of American foreign trade. Its directors have been prominently identified with every worthy movement in this connection, without falling into the error of espousing any party position.

The Association holds monthly conferences with addresses by prominent speakers, and annual gatherings, generally convoked to consider the vital problems of the day in American international commerce. The Association publishes a journal of importation for members under the name of "Weekly Bulletin," but does not engage directly or indirectly in any enterprise for profit.

c) *The Philadelphia Commercial Museum.*

The Philadelphia Commercial Museum acts as a clearing house of information on all questions pertaining to export trade. It supplies information on foreign trade opportunities, business conditions, reputation and responsibility of foreign merchants, shipping rates and routes, customs tariffs, commercial travelers' licenses and taxes, trade mark and patent regulations of foreign countries—in fact on any subject connected with the development of export trade.

It helps manufacturers to establish relations with reliable foreign merchants and aids them to select competent and trustworthy agents abroad.

In its files it has records of many hundreds of thousands of foreign importing houses, dealers and industrial organizations. It is in close and frequent communication with commercial organizations, banking institutions, information bureaus, governmental departments, prominent importers, shipping companies, special agents and correspondents in all parts of the world.

Although located in Philadelphia and supported in a measure by appropriations by that city and by the State of Pennsylvania, it is conducted in the interest of manufacturers in all parts of the United States and is used by hundreds of them in the transaction of their foreign business.

The Library maintained by the Commercial Museum is unique in many respects and is probably the most complete of its kind, specializing in literature pertaining to trade, commerce and industries of all countries, comprising over 50,000 volumes and many hundreds of trade publications, statistical reports, foreign directories, official gazettes, foreign year books and similar publications.

The Foreign Trade Bureau is practically dependent upon its subscribing manufacturers who are utilizing its facilities. The fees charged for services are graded according to the extent and nature of the service rendered.

The Institution issues two publications—one "Commercial America" which is issued in both English and Spanish,—(the Spanish under the name of "America Comercial")—the other, "The Weekly Export Bulletin."

The Commercial Museum was organized about 25 years ago and through the liberal support given to it by the City of Philadelphia, the State of Pennsylvania and manufacturers throughout the United States, it has succeeded in establishing foreign connections through which it has collected an immense amount of valuable data, which is being added to daily by reports received from foreign correspondents and agents by the accession of literature of an official and commercial nature.

The institution is directed by a Board of Trustees appointed for life and serving without compensation. The Institution is in no sense a profit making organization.

d) *The American Exporters and Importers Association.*

This Association of export and import merchants was formed for the promotion of foreign trade and the solution of business problems generally.

In 1911, a Committee of Exporters had various conferences with Committees from Manufacturers' Associations, at which both sides expressed their grievances, and all grievances were frankly discussed and satisfactorily adjusted. The Exporters Committee explained the various problems and intricacies of foreign trade, and suggested many ways by which manufacturers could extend their trade in foreign fields.

In 1912, ocean freight rates from New York to the River Plate were exorbitant, and the Association was successful in securing an adjustment of rates to conform with those from Liverpool, and in obtaining special rates on certain commodities. This was possible only by concerted action on the part of the exporters.

In 1913, freight rates to Australia were advanced, these advances seeming unjustified; and the Association, supported by its members, secured an adjustment of rates to conform with those from Liverpool and London on the same commodities, thereby placing American shippers on the same basis as those operating from abroad to the Australian ports.

When the war broke out in 1914, numerous problems arose from day to day, with which it was possible to cope only through co-operation by all exporters. Freight contracts made in good faith at lower rates, were repudiated when freight rates were soaring skyward; and it required energetic and earnest work on the part of the Association to obtain protection for the old contracts. Then there arose the various questions of excessive charges for the transmission of cables, transportation, cartage, war risk insurance. The Committees of the Association were continuously at work trying to overcome the obstacles which were constantly threatening to strangle the foreign commerce of the country.

The Association's War Trade Committee obtained from the War Trade Board an extension of time on export licenses from 90 days to six months, which was a boon to manufacturers, who were producing under severe handicaps and were frequently unable, even with the utmost effort, to deliver their goods within the prescribed 90 days.

This Association to-day represents an annual turnover in American foreign trade aggregating over a billion dollars. It contains among its members some of the oldest and most highly respected houses in the export trade of America.

e) *The Council on Foreign Relations.*

The Council on Foreign Relations is an organization of interested and informed people with the patriotic desire to help their national life and their relations with foreign countries. The Council has no selfish purposes nor political bias. Past conferences show that much is learned and much good is accomplished through the Council's activities.

The Council is an organization of limited membership and brings together at its conferences not only members but guests likely to be interested in the topic under discussion. Several ten minute talks are given by speakers especially qualified to deal with the subject under discussion and through these several talks a well rounded out discussion is possible.

f) *The Tanners' Council of the United States of America.*

The Tanners' Council of the United States of America is an organization that is national in scope, but embraces only the leather and allied industries. It it a pioneer organization of its kind, and the great success which it has achieved from the start will doubtless lead other industries to organize in a similar manner. The Tanners' Council was formed shortly after the United States entered the great war, by cooperation among formerly existing associations, for the purpose of assisting the government in its war-time control of the production of leather and of the trade in raw materials required for tanning. It is now the sole permanent and national organization of the entire tanning industry.

The Secretary of the Tanners' Council is a former assistant chief of the Bureau of Foreign and Domestic Commerce. Its Foreign Trade Department is in charge of another prominent former government official who has a vast experience in foreign fields. Co-operating with the government agencies for the promotion of foreign trade, and opening direct connections with all foreign markets, the Foreign Trade Department of the National Foreign Council has already proved a valuable asset in the extension of our foreign trade in the products of the tan-

ning industry. The Council has adopted an emblem, issues a publication "American Leather" in English, Spanish and French, publishes bulletins, and operates an information bureau which keeps tab on all events of interest to the tanning industry throughout the world. It has been instrumental in bringing to the notice of the government and in remedying conditions which militated against the success of our foreign trade in leather and allied products, and managed a most creditable exhibit at the Lyons Sample Fair in the spring of 1919.

C. Foreign Trade Promotion Through Local Organizations.

The interest taken in foreign trade promotion throughout the country is evidenced in many ways. In the present consideration we are concerned with an analysis of the ways and means in which local organizations such as chambers of commerce and boards of trade can foster and encourage and aid the foreign trade activities of their members.

The chamber of commerce in America is a free association and has not that official status which characterizes chambers of commerce in European countries outside of England. From many points of view it is a great advantage since it leaves these organizations untrammeled by official interference in the free development of those spheres of usefulness which appear desirable or requisite from the point of view of local needs.

In connection with foreign trade, it is well for local chambers of commerce to study those activities in which they can engage profitably to their members, those activities which they best leave alone, and those activities which may be dictated by peculiar local conditions, though inapplicable to the general run of chambers of commerce.

The foreign trade department of a local chamber of commerce can best serve its members by being the recognized nucleus of gatherings, discussions and services relating to local interests in foreign trade. It will not seek to engage in work for which a local organization is manifestly unfitted, since it requires resources beyond its capacity. For all such work it will advise its members to look to such organizations of nation-wide scope in which they can secure membership.

Thus the local chamber of commerce will not undertake to furnish credit reports. Credit reports should be obtained through the regular mercantile agencies, through the National Association of Manufacturers, the American Manufacturers' Export Association, the Philadelphia Commercial Museum, through banks, etc.

With regard to translations, it will seek to keep a file of persons in the vicinity who are thoroughly competent to translate from and into various languages, and lacking such should refer its members to organizations which maintain efficient translation bureaus. Only in exceptional cases, in the larger cities, will it find possible to maintain a translation bureau of its own.

The local chamber of commerce, through the head of its foreign trade department, should keep in active touch with the Bureau of Foreign and Domestic Commerce. Several chambers of commerce have made arrangements with that official body to act as its adjunct in their cities. It will also find it advisable to keep itself in the closest touch with such organizations of nation-wide scope as are described in the preceding chapter.

The work of the foreign trade department of a local chamber of commerce may be divided into informative, educational and promotional. For the informative work the chamber of commerce can little by little equip itself with maps and atlases, Lippincott's Gazetteer, Exporters' Encyclopedia, books on foreign trade, books on special countries, statistical and other publications of the Department of Commerce, an indexed file of Commerce Reports, directories of foreign countries, such as Kelly's Directory of the World, and other directories which can be purchased either in America or abroad. The use of these directories in many instances presupposes a knowledge of foreign languages.

It is also advisable to keep current copies of all export periodicals, and endeavor by an exchange arangement for the Chamber of Commerce Bulletin to receive copies of the foremost foreign trade papers.

A very profitable form of activity is to make the name of the city in which the chamber of commerce is located better known throughout the world. The head of the foreign trade department of the chamber may devise some striking publicity mat-

ter for various countries, in the language of the countries concerned and pass it on through a chamber of commerce in each strategic center of the world's commerce. American chambers of commerce abroad may be utilized for this purpose. Catalogs of all members interested in foreign trade should be sent to all American consulates.

In every city of commercial importance in America there is some peculiar reason, some specific foundation for its development and progress, some natural advantage, some outstanding expression of local industrial enterprise that has shaped its destiny. To bring these points out, to let the world outside of the United States know of them, is to bring local industries by that much closer to the minds of the commercial people throughout the world.

It means that the world at large which connects Pittsburgh with steel, Chicago with packing products, Detroit with automobiles, Cincinnati with machine tools, Boston with shoes and leather, should be made even more intimately acquainted with other cities, and even with the numerous activities of these great cities beyond the industries named. The striking domestic publicity campaign of Kansas City may serve as a pattern, with proper modifications, for a "boosting" campaign abroad.

Many chambers of commerce recognize this, but they should encourage the heads of their foreign departments to utilize all reasonable methods of publicity abroad to make their home city known for the things in which it claims special merit. Country by country should be taken up, from those nearest to America in commercial relations to the most distant. Space and lack of commercial intercourse are obstacles that will vanish before long. Abyssinia, Afganistan, Persia, Thibet, Central Africa will tomorrow be buyers. Missionary work now in the most distant countries will give the members of an enterprising local chamber of commerce a great advantage. Manufacturers are to-day selling products in Sumatra who in 1915 thought that Sumatra was the trade name for a cigar wrapper. And only in 1914 the Minister of Railways in one of the greatest European countries had to be told that Seattle was a Pacific Port in the United States.

Half a dozen chambers of commerce, a dozen, if need be, may unite in sending an informative mission, with a set of films,

in charge of persons speaking various languages, or hiring such persons on the way, and advertise our great commercial cities and their products. Such an enterprise will repay itself beyond measure by getting the importers abroad to understand the variety of resources hidden in our industrial cities.

The foreign trade departments of local chambers of commerce should hold special conventions and conferences of their committees, in order to compare notes, to learn from one another and to help one another. There are many ways in which singly they cannot make a showing worth while, but as an association of the foreign trade departments of American chambers of commerce they might engage in a variety of functions which are now closed to them. Perhaps the Chamber of Commerce of the United States of America might organize a central subsidiary organization of such foreign trade departments furnishing them a central service.

Organized in this manner, foreign trade departments could at a very low cost per chamber or member maintain correspondents and representatives, at first in a few selected strategic centers of the world's commerce, then extending this network of representatives, and it would be the business of these representatives to work in the interests of each chamber of commerce.

Chambers of commerce may devise ways and means to attract foreign visitors and offer them their facilities. They may encourage visits of their members to foreign countries and they must interest their members going abroad in boosting their city wherever they go. There cannot be too much publicity work in this connection, and it all rebounds to the benefit of the entire commercial community.

It is advisable to get the members together at luncheons or dinners and to provide speakers worth while who should address them on topics of vital interest.

Wherever possible, the subject of education in foreign trade should be encouraged. If within the sphere of the local chamber of commerce activity there is a college giving instruction in some phase of foreign trade, there should be a most intimate relation between the chamber of commerce and the school. Export managers of members should be induced to organize classes in foreign trade. The education of the employees of export de-

partments in matters relating to international commerce should be promoted in every way.

Great progress has been made by many local organizations in the promotion of foreign trade activities, and to-day excellent foreign trade bureaus are maintained by the following chambers of commerce:

Cincinnati.—Established many years, services free to members of the Chamber of Commerce; operated by a manager and efficient staff, furnishes reports on trade conditions, trade lists and trade opportunities, expert service in documentation, shipping information, tariff and customs information, arranging and systematizing of export departments. It wisely refrains from giving credit information. Maintains a thoroughly well equipped translation bureau. Has honorary correspondents abroad. Co-operates with the Bureau of Foreign and Domestic Commerce. Operates a Bureau of Education for foreign trade, which has worked out a full curriculum for night schools and day schools, the Cincinnati University and the Ohio Mechanics Institute. Issues a foreign trade bulletin. Makes a specialty of inviting and entertaining foreign buyers. Does not believe in organized trips of members, but assists members and their representatives going abroad, by furnishing letters of introduction, itineraries, etc.

Rochester.—Maintains a Foreign Trade Department without special membership fee. It is under the supervision and direction of a Foreign Trade Committee. It endeavors to give information and advice on all matters relating to foreign trade. Furnishes no credit reports or translations and has no foreign correspondents. Considering co-operation with the Bureau of Foreign and Domestic Commerce. Holds series of meetings with addresses by experts for the benefit of its members and their employees. Invites the government's trade commissioners returning from abroad to address the committee.

San Francisco.—This organization maintains a very strong foreign trade committee. The report of this committee quoted below in extract is an indication of what a local chamber of commerce may accomplish in foreign trade promotion:

During the year the Foreign Trade Department published twenty-five hundred foreign trade opportunities, an average of over eight per working day. There are an average of over three hundred requests a week for these data. The seventh National Foreign Trade Convention was secured for San Francisco for May 1920. This will bring some two thousand of the leading business men of the country here: Special steamships have been arranged for, one to leave Calcutta and the other Valparaiso, stopping at intermediate ports to bring such American merchants living abroad as can get away. Secured the establishment of a Commercial Agency of the Bureau of Commerce and Industry of the Philippine Government and a Commercial Bureau of the Department of Commerce of the Chinese Government, also a Commercial Bureau of the Australian Government.

Secured the California representation of the American-Russian Chamber

of Commerce of New York with branches throughout Russia and Roumania. As soon as conditions permit this will be of immense benefit to San Francisco merchants. Was successful in prevailing upon the Shipping Board to load the new steel ships being built on the Pacific Coast direct to Europe with Pacific Coast foodstuffs instead of going to the Atlantic for loading. Two French lines are practically decided to open service, one to Mediterranean and the other to Channel ports. Two Belgian Steamship Lines are now figuring on establishing service to and from the Pacific Coast. Three British lines are now considering the establishment of regular service. One Italian line contemplates establishing direct service to Mediterranean ports. Direct regular service between Pacific Coast and Charleston is promised for late August. Direct regular service is promised for September between San Francisco and Philadelphia. Direct fast passenger and freight service between San Francisco and New York is promised for late fall.

Prevailed upon the Government to furnish monthly detailed statements of exports and imports by countries and commodities for the ports of Washington, Oregon, San Francisco, Southern California and New York. Did considerable work in connection with the Traffic Bureau in trying to secure low export and import rail rates. Secured consent of State and Navy Departments to send commercial news by Radio free to all the countries of the Orient so it could reach the people of those countries unfiltered or distorted by foreign influence. Arranged with over one hundred and eighty foreign newspapers and magazines to send weekly publicity items which are now being largely copied in such publications throughout the Far East. Arranged for close co-operation and assistance with the various American Chambers of Commerce located in foreign countries among which are the American Chambers of Commerce at London, Paris, Shanghai, Tientsin. Amsterdam, Naples, Barcelona, Saloniki, Mexico City, Buenos Aires, Rio Janeiro, Cape Town, Manila, Barranquilla, Milan.

Sends each week copy of the "Activities" to every Consul and Chamber of Commerce located at ports of the Pacific Ocean. Has on file some ten thousand books, pamphlets, reports, etc., and receives regularly some three hundred publications a month including British American and Far Eastern.

Buffalo.—This chamber of commerce maintains a foreign trade department without fees to members, under the direction of a committee of five to seven members, employing an export trade secretary. It gives out foreign trade opportunities, keeps a list of competent translators. It is practically a co-operative office of the Bureau of Foreign and Domestic Commerce.

The export trade bureau is active and has been in existence four years. It has been instrumental in increasing the local interest in foreign trade. It publishes its news in the chamber of commerce bulletin known as the "Buffalo Live Wire." It has urged its members to attend National Foreign Trade Conventions.

Pittsburgh Chamber of Commerce.—The Foreign Trade Department has just been organized. It is a co-operative office of the Bureau of Foreign and Domestic Commerce. It will seek to place before members inquiries from all over the world which are addressed to the chamber of commerce. Frequently the Chamber has been able to pass on inquiries for products not manufactured in Pittsburgh to manufacturers in

other cities. The Foreign Trade Department is working out plans for educative and other activities.

Seattle.—Services of the Foreign Trade Bureau are free to the members of the Chamber of Commerce. The Bureau is managed by a director and supervised by an executive committee. Maintains a reference library, compiles statistics, entertains foreign visitors. Keeps in touch with competent translators. Publishes a section for foreign trade news in the "Seattle Spirit," bulletin of the Chamber of Commerce. Has organized trips of members to foreign countries.

Merchants' Association of New York.—This great association organized its Foreign Trade Department only a few years ago. The venture long ago passed the experimental stage and is a pronounced success. The Merchants' Association receives many thousands of inquiries for American products and during the years 1918-1919, 1700 visitors called at the office, including many foreigners. About one tenth of inquiries received come from foreign consuls chiefly in New York City. The Foreign Trade Department is under expert management. An extract from its last annual report may be of interest:

From its inception the Bureau has assisted houses entering foreign trade and those enlarging or changing their foreign business. In the last quarter of the year, however, due to restrictions this work fell to about one-third its former importance. During the twelve months it had 226 separate requests for assistance in these directions. These requests came from houses wishing to develop business in fields which they had not hitherto cultivated.

The most direct aid which the Bureau affords New York firms is the distribution of opportunities for foreign business dealings. Representatives of foreign houses frequently learn of the Merchants' Association of New York before leaving their native country, and, upon arrival, come to its headquarters at once for guidance in getting in touch with the most desirable houses regarding the purchase or sale of merchandise. Letters and cable messages asking its assistance in similar matters are daily received.

During the war, in order to keep the trade opportunity work before other houses, the Bureau sent approximately six hundred copies of its annual Year Book to American Consuls abroad. The Bureau prepared five articles which either described the foreign trade work of the Association or related to some problem or phase of oversea business, which were published in papers in the United States or abroad.

Illinois Manufacturers Association.—This organization has been devoting a great deal of attention to foreign trade interests of its membership. It maintains an unsually strong foreign trade committee which has been in attendance at all the recent prominent conventions discussing foreign trade. It is considering the establishment of a Foreign Trade Bureau.

The Chicago Association of Commerce.—The Chicago Association of Commerce is one of the most successful and progressive organizations of local character having for their aim the advancement of the foreign trade interests of the business community within their sphere of activities. It offers to its members interested in the sale of their goods abroad all information regarding the financing of the shipment, proper packing,

etc., obtains inland and ocean freight rates, insures shipments and books space. It gives information on the customs tariffs of foreign countries, statistics, etc. It maintains cordial relations with chambers of commerce and like organizations in all foreign countries, supplying them with copies of its classified membership directory and other literature, inviting them to give letters of introduction to merchants about to visit Chicago and introduces foreign visitors to concerns in the city. Its directory and other publications are models of their kind. The Chicago Association of Commerce is one of the American local organizations most widely known in foreign countries. Copies of its Blue Book may be seen in every country in the world.

Foreign Trade Club, San Francisco.—This is an organization of several hundred firms and individuals in San Francisco, meeting once a week to hear lectures by experts on foreign trade topics. It has been described as one of the livest organizations of its kind in America. Its lectures are printed in the shape of handy pamphlets and form a valuable reference library for its members.

CHAPTER XX.

Export Publicity Methods.

a) *General Remarks.*

The object of publicity is to bring something to the knowledge of the public quickly, economically, efficiently. In no country in the world has there been so much striking and successful exploitation of publicity as in the United States. Almost all European languages use the same word, with slight lingual changes, to denote publicity: Reclame, Reklame, Reclama. And it is a significant fact that it is almost invariably coupled with the qualifying word "American." The elaboration of the catalog; the apotheosis of the electric illuminated sign; the weekly journal with its wealth of page advertisements; the daily newspaper with its tremendous circle of readers; the recourse to advertising by the government and even by churches—all these things prove that America is the classical land of publicity.

Publicity, through its remarkable development and specialization, has made its necessary for all commercial enterprises depending upon the sale of their products to place that phase of the selling organization in the care of competent and specially trained men. And co-operating with them are the numerous organizations of experts operating advertising agencies or advertising service bureaus. The best methods of advertising a given product among a given public in a given territory are carefully worked out, painstakingly executed and followed up. The results are checked up. The weak spots are bolstered up.

For some reason or other publicity abroad is not, as a rule, sought along the lines of the same co-ordination of study of the market, of available methods of publicity and of the best manner of bringing the product concerned to the knowledge of the people concerned in such a way as to induce them to buy it.

In seeking publicity abroad the first principle is to be very

clear whether the product that is to be advertised is suited for a given market. If it is not suited for it, if a demand for it cannot be reasonably expected to be developed, if it cannot be adapted for it, it would be a waste of time to advertise it.

Having by a process of elimination arrived at those markets where a given product may be sold, it will be necessary to study each market separately.

It will be found that the media of publicity available in each country differ. In England and France and Germany, in some of the very large cities throughout the world there are almost the same methods used as in America, though on a smaller scale. Everywhere else there will be found a remarkable scarcity of publicity media compared with those in use in America.

The psychology of each market differs. Outside of a few elemental instances, an appeal must be presented differently in each country, and even to various strata of population in the same country.

The exporter and manufacturer must also be very clear to whom he wishes to sell his product: to the trade? if so, to wholesalers or retailers? to natives or foreigners in the marker under consideration? To consumers? if so, to wealthy or poor classes? To educated or uneducated consumers? He must familiarize himself with the degree of purchasing power in each class of the population which he may seek to reach. A breakfast food manufacturer had his circular translated into the language of a certain race in the Far East that is so notoriously poor that it would have to pay an equivalent of one and a half day's wages for a package of this breakfast food, and special technical terms had to be coined to convey an idea as to the protein contents of the food to people who were almost altogether illiterate, and to whom a chemical analysis was an unsolvable mystery.

The exporter and manufacturer will find it necessary to seek expert advice before planning a publicity campaign, abroad. The export manager and the advertising manager must get together, and if between them they do not know how to utilize the available publicity methods for a given market, they must seek the co-operation of advertising specialists who have studied the foreign field. This does not mean that they should seek out an advertising agency that merely has in its possession a list of rates

for advertising in foreign newspapers. If an advertising agency has no specialists in its employ who have made a thorough study of the best methods for bringing various American products to the knowledge of those who buy them in this or that market, the exporter will do well to shun such an agency.

Foreign publicity must be made a special department of prominent advertising agencies. Men must be specially trained for this work. Actual selling experience, foreign travel and close touch with conditions in each country are the prerequisites for efficient service in this connection.

But directing publicity abroad at long range must necessarily lead to some disappointments. It takes a wise and well-informed man to satisfactorily direct a publicity campaign in New Zealand from Chicago. The exporter and manufacturer must content himself with such means if he has no competent branch manager, agent or representative in a foreign country. If he has such a one, the wisest plan is to place him in charge of local publicity.

The Bureau of Foreign and Domestic Commerce receives from time to time valuable information from consuls and from trade commissioners on the subject of advertising abroad. Not long ago it issued a booklet giving the rates of advertising in many foreign newspapers. This book is now out of print. It may be added, fortunately. The possession of a book with advertising rates in foreign newspapers, without the knowledge of how to use them or not to use them, is like letting children play with explosives.

If in seeking foreign publicity the object is to attract to the export department inquiries and orders for goods, and the manufacturer in question has no branches or agencies abroad, he has at his disposal the American export journals, which we will discuss below, circularization of business houses whose names he can secure from the Bureau of Foreign and Domestic Commerce, from the export journals which he may use for advertising, from organizations, such as the National Association of Manufacturers, American Manufacturers' Export Association, Philadelphia Commercial Museum, etc. If his products appeal to certain trades, he may advertise in the trade journals of England,

France, Germany, Italy, or in papers such as are read by the entire trade of a country, as *"Capital,"* in India.

He will prepare special matter for such media, being particular to remember that what is generally known about his product in America may not be known abroad. He must be clear; he must use the language of the country in which the goods are advertised, and in using the language of the country he must be sure that it is the right kind of language. Even in the use of English there are vast differences. The baseball column of an American newspaper is a puzzle to an Englishman or an Australian. Expressions used in Mexico are not always understood in Peru or Colombia.

Such advertising being long-range advertising, the prospective buyer must find in it full information as to where to send his money and how much to send, or at least how to write the advertiser.

In many countries he will find a dearth of special trade papers, and those that exist may have a limited subscription list. But it is unwise to assume that such trade papers are entirely lacking. Progress is being constantly made in this direction. Some excellent trade papers, for instance, have been founded in Buenos Ayres and other Latin-American cities in recent years.

If the product is intended for the masses, it is unwise to start a publicity campaign in any country without the co-operation of a sales agency in that country. For the publicity department might devise methods that are utterly unsuited to the country. Publicity intended for the masses should be only used in conjunction with locally directed distribution, and it is only wise to entrust such publicity campaigns to the local distributors, or at least to be guided by their advice.

Electric illuminated signs are now in use in many countries, and are always effective wherever they are used merely to bring to the attention of the throngs articles of interest to them that can be bought locally.

One of the most effective means of advertising, a medium which is yet in its infancy, is the film. All people, particularly the Orientals, like to see how a thing is done. A number of American manufacturers have exhibited films demonstrating the

making and the use of an American product to Chinese and Japanese audiences.

To summarize, each product, each foreign country, each class of buyers abroad presents a separate problem. Each of these problems demands a special study and a special solution Publicity must go hand in hand with the means of distribution. If purchasing eagerness is awakened, the prospective buyer must be able to get the article wanted before his zeal subsides and without going to a great deal of trouble. Publicity must take into consideration the nature of the information which the foreigner should receive concerning the product advertised. His psychology must be considered. Most nations object to our frivolous use of superlatives. Instead of characterizing anything as the biggest or finest or fastest, it is best to state that an article possesses certain unusual merits, and then to recite each of these special merits.

In the following we will consider the proper use of the various media available to the American manufacturer in search of publicity abroad for his products.

b) *Publicity Through American Export Periodicals.*

Like the American export commission merchant, the reputable American export journal has done much to upbuild American trade with foreign countries. American exporters and manufacturers owe a distinct debt to the activity of the foremost American export journals. The foundation of many a flourishing export department rests upon the first aid rendered it by these periodicals.

There have been numerous American export periodicals launched upon the troubled sea of international commerce, but only a few have survived. These few illustrate the survival of the fittest. They have survived and prospered because they give actual service, and because the results of publicity attained through them justify the continued confidence of the exporters and manufacturers.

Not so many years ago it was difficult for concerns abroad, even if interested in American products, to come in contact with sources of supply in the United States. The export journal,

first printed in English, then in Spanish, and finally also in Portuguese and French, came to the hands of foreign merchants at first unsolicited. Its reading matter, in the beginning, was of little interest. Its advertising pages were of great interest. Inquiries were sent, answers were received, connections were opened.

Little by little the list of those who received these journals increased. The literary contents of the publications improved in quality. Here and there the merchant was willing to pay a subscription so as to be sure to get the magazine regularly. Unreliable or improperly financed publications started with much noise and sent out solicitors to foreign countries, and received subscriptions, chiefly due to the hopes of the subscribers that they would prove at least equal to the old publications which they had been receiving unsolicited. These mushroom ventures collapsed generally after a brief existence.

The export periodicals of to-day are in many instances gorgeously gotten up affairs, but their appearance is not the thing that makes them valued abroad. It is the fact that each of them is a sort of a classified directory of American products in the language of the country. Beyond a doubt the frequently clever and certainly wonderfully well illustrated articles appearing in them are only of secondary consideration. It is difficult for an American, no matter how clever he is, to write an article that would interest a Colombian or a Moroccan. The export periodical printed in America can never become to the foreigner what the Saturday Evening Post is to an American, but it will be valued chiefly because of its advertising.

Export periodicals almost invariably give services of various kinds to their subscribers. While this originated doubtless in the desire of being relpful to advertisers, on the basis of its circulation (whether paid or not, matters very little, because the export periodical is not read for literary purposes, as an ordinary reader who buys the Century or Harper's Magazine reads such magazines, but for the advertising which interests foreign merchants). Frequently the American manufacturer has established his own branches abroad and is less dependent upon the export publication, but for patriotic reasons, and for the sake of general publicity, he will maintain his advertisement in the export

journal. American export periodicals have done pioneer work in securing publicity for American manufacturers where it counts in dollars and cents.

The principal American export journals are mentioned in the following lines:

1. AMERICAN EXPORTER is published in four editions, English, Spanish, French, Portuguese, every month. The advertising is grouped according to the nature of the product in 15 divisions. The American Exporter furnishes a weekly bulletin of Foreign Trade Opportunities. It maintains a large and well equipped service bureau. Representatives of the American Exporter undertake foreign trade tours in the interest of its advertisers. The American Exporter has been in existence 42 years. Its editor is B. Olney Hough, author of "Practical Exporting," and a recognized expert in matters of international commerce. The distribution of the American Exporter is given as 17,000 copies of the English edition, 19,000 of the Spanish edition, 11,000 of the French edition, and 7,000 of the Portuguese edition.

2. EXPORT AMERICAN INDUSTRIES, the official international organ of the National Association of Manufacturers, is an admirably gotten up publication in English, French, Spanish and Portuguese. Export American Industries publishes a sworn statement of circulation. The total for the French, Spanish and English edition for June 1919, was 52,602, of which about half went to Latin America. The literary contents of these magazines are of a very high order, aiming to bring America before the foreign reader. It is claimed that Export American Industries publishes no write-ups, which is a commendable policy, because write-ups by their generally forced construction defeat their very object and may lessen the reader's interest, if not confidence. The Foreign Trade Service of Export American Industries is of the high grade possible to a publication allied with the National Association of Manufacturers.

3. DUN'S INTERNATIONAL REVIEW, published in Spanish, Portuguese and English, is affiliated with the well-known mercantile agency. The facilities of this organization with its sixty-eight branches in foreign countries to direct the

circulation of these periodicals into channels where each copy counts are obvious. A most valuable adjunct of Dun's Industrial Review is the "World's Markets," a publication containing much information of great value to American manufacturers and exporters. Dun's International Review claims a circulation of over 30,000 in Europe.

4. EL COMERCIO, is an old estabilshed export monthly circulating in Spanish speaking countries.

5. EXPORTER'S REVIEW is a publication intended principally for exporters of American products. It is published by the Exporters Encyclopedia Co., under whose auspices appears that important handbook for exporters which should not be missing from any export department. Exporters' Review has also an important circulation among importers in foreign countries.

6. EXPORT TRADE is a new and very live little publication serving the interests of American exporters and containing much valuable information. It has survived the critical period and bodes well to become a most valuable magazine.

c) *Catalogs and Circularization.*

A great deal of what has been said with regard to advertising abroad in general applies also to that form of publicity which is known as the catalog.

A catalog is a booklet intended to acquaint its reader with the general line of products manufactured or sold by a firm. It should be informative in a concise way. The information contained therein has the aim of inducing the reader to buy. It replaces the salesman to some extent. In inducing the reader to buy it must furnish him with all the data necessary to come to such a decision, without leaving him half-way in his desire, for if the buyer cannot tell what the goods will cost him, he may postpone the placing of an order, and someone else may present a competing line with such wealth of data and of selling arguments that the object of sending the catalog will be defeated. The catalog must be furnished with prices showing the cost of the article at destination. But since the catalog for the trade may

have to be shown the recipient's customer, these prices should be in a supplement and not in the body of the catalog.

The catalog must be in the language which the recipient can readily understand. Therefore the English catalog will be of no use to a recipient who cannot read English. We have then the necessity of translating the catalog into the language of the country to which it is to be sent. Care in translation is something so obvious that it would be a waste of time to dwell on it. Only experienced translators, thoroughly conversant with the technique of the line and with the technical side of translating and with the current use of the language in the country for which it is destined should be entrusted with the work. The manufacturer will do well to consult the translation bureau of organizations that are responsible and have experience in translating catalogs.

Mere translating is inadequate. The English catalog contains selling arguments that lose in force when translated into a foreign language. They are intended for readers more or less familiar with the product, whereas foreign readers may not be. They are intended to meet a different competition from the kind that will be encountered abroad.

The catalog for foreign consumption must be specially edited for each country and for each set of readers. The catalog for foreign use is intended as a reference work. It must be calculated for frequent and prolonged use. It must be made so valuable and interesting that it will not wander into a waste basket. Catalogs should be sent to all American consulates abroad and to selected lists of buyers. These lists of buyers may be obtained from the Bureau of Foreign and Domestic Commerce, from organizations as the National Association of Manufacturers, Manufacturers' Export Association, etc., or from export periodicals. In selecting lists from foreign directories great care must be exercised.

Applicants for catalogs should be scrutinized. There are very many irresponsible persons abroad who write for catalogs. The sending of a catalog should be followed up from time to time by courteous letters in the language of the country. Traveling salesmen going abroad, agents in foreign countries, foreign

branches should immediately be notified of requests for catalogs.

It is well to send catalogs in a bunch to the manufacturer's agent or foreign branch in each country where he maintains such connections. In some countries duties are imposed upon foreign catalogs. In that case arrangements should be made to send catalogs in bulk to an address in the country concerned, to pay the duty and to have the catalogs mailed from that address.

d) *Publicity Through Foreign Newspapers and Trade Journals.*

EUROPE.

AUSTRIA.—The principal newspapers appear in Vienna. Viennese newspapers are read throughout the German speaking portions of Austria. An advertising agency in Vienna should be consulted. Products for mass consumption may be properly advertised in those newspapers, provided there is a possibility of the consumer purchasing the product from an Austrian source. Publicity in these newspapers may also be sought at supplementing the efforts of agents in Austria. There are a number of trade papers published in Austria. Their circulation is not as a rule great, except in the dry goods line. For other trades circularization is better suitable than advertising in trade papers, particularly as the latter aim to foster the interests of the home industries.

BELGIUM.—The Belgians are great newspaper readers. The percentage of literacy is very high. Articles for general consumption may be properly advertised in Belgian newspapers through the medium of an advertising agency in Brussels. Belgium is a small and compact country. Lists of tradesmen in various lines may be obtained readily, though a few months should be permitted to elapse for the compilation of new lists, as various trades pass again into a normal stage. Many excellent trade papers are published in Belgium.

BULGARIA.—The Bulgarian commercial community is not very large. The mass of Bulgarian people are peasants and not great newspaper readers. The trade can best be reached by circularization. The American Chamber of Commerce for the Levant may be profitably consulted.

CZECHO-SLOVAKIA.—A publicity campaign should be launched from Prague. The appointment of an agent in Prague and the management of publicity through him are advised.

DENMARK.—This is a small country and Copenhagen is the chief center of publicity. Danish advertising agencies and Danish representatives should be entrusted with advertising arrangements.

FINLAND.—This new republic is passing through experiments in trade co-operation and state socialism. Publicity should not be attempted for some time to come. The situation will clear before many months. Personal visits and the appointment of representatives will lead to the adoption of such methods of publicity as may become available. Someone in Helsingfors should be put in charge.

FRANCE.—The great newspapers of Paris are read throughout the country. There are also excellent trade journals of every description. Advertising agencies in France and the American Chamber of Commerce in Paris should be consulted in planning publicity campaigns.

ITALY.—Publicity in Italy should not be attempted without the services of an Italian advertising agency. The Italian Chamber of Commerce in New York and the American Chamber of Commerce in Milan may be profitably consulted. Milan, Turin, Genoa, Rome and Naples are the chief centers from which the publicity campaigns should be launched.

GREAT BRITAIN.—Publicity methods are not very dissimilar from those in vogue in America. There are excellent trade papers for every class of trade. Advertising agencies in London should be consulted.

JUGO-SLAVIA.—This new country, a conglomerate of old Serbia and of certain portions of Austria-Hungary, is composed of units that have not yet attained proper cohesion. It is not ripe for publicity campaigns. The newspapers are not prominent. The mass of the population is not very literate. Trade papers are few and weak.

NETHERLANDS.—All methods of advertising current in the United States are also in vogue in the Netherlands. A reputable Dutch advertising agency should be entrusted with planning and executing a publicity campaign.

NORWAY.—Advertising in Norway should be handled by an advertising agency in Christiania. Trade papers are comparatively few and unimportant. Newspaper advertising is popular.

POLAND.—Conditions in the new republic are as yet unsettled. Advertising in the newspapers of Warsaw may bring good results. There are few trade papers. The masses are not very literate. Long range publicity is not indicated for some months to come. Agents in Poland should be entrusted with publicity.

PORTUGAL.—The best method of publicity is through circularization of firms in Lisbon and Oporto. To reach the consumer, advertisements in the newspapers of Lisbon and Oporto may be effective if backed up by a live agency. American export periodicals are paying much attention to this market.

SPAIN.—The mass of Spanish people are not great newspaper readers excepting in the large cities. Magazines do not carry the wealth of advertising such as characterizes American magazines. Publicity should be left in the hands of an advertising agency in Madrid or Barcelona. The American Chamber of Commerce in Barcelona should be consulted. Circularization of the trade is effective.

SWEDEN.—A Stockholm advertising agency should be consulted. The Swedes are great newspaper readers and advertising in the Stockholm newspapers is very effective. The Swedish American Chamber of Commerce in New York will give advice on publicity.

SWITZERLAND.—Basle, Zurich, Geneva, Lausanne are centers of publicity. The first two prefer German, the second two prefer French as the language of publicity. An advertising agency in Geneva and another in Zurich should be entrusted with publicity. Switzerland has a fine regional directory with a great deal of information about the importance of the firms concerned and the trade may be conveniently circularized.

UNION OF SOUTH AFRICA.

Excellent newspapers in Cape Town, Durban and Johannesburg may be used for publicity. There are newspapers specially devoted to commerce. Our American export periodicals have a wide circulation among firms interested in American trade.

MOROCCO, TUNIS, ALGERIA, as well as various colonies. Publicity should take the form of circularization. Lists of firms may be obtained as indicated elsewhere.

EGYPT.—Newspapers in Cairo and Alexandria may be used to advantage, likewise circularization.

AUSTRALIA.

AUSTRALIA and NEW ZEALAND.—Excellent newspapers and trade papers can be advantageously used, but the co-operation of an advertising agency in Melbourne or Sydney and in Auckland or Wellington should be secured.

A S I A.

CHINA.—There are excellent papers in Shanghai and in Hongkong for the European trade. The natives may best be reached by film exhibitions. Publicity for the native trade is indicated by Chinese newspapers, which should not be employed unless through someone resident in the various portions of China.

JAPAN.—The Japanese are more literate than the Chinese. A number of widely read Japanese newspapers and trade papers may be employed through the co-operation of an agency in Japan. There are good English newspapers in Tokio, Yokohama and Kobe, read by the European and American business community. The use of illuminated signs is very common. Circularization (in the English language) through carefully selected lists may be also very effective.

INDIA.—The weekly "Capital" is largely read by the entire trade. There are a number of native news and trade papers. Publicity should be sought through the medium of an advertising agency in Bombay, Calcutta and Madras.

LATIN-AMERICA.

American export periodicals cover Latin-America efficiently.

ARGENTINA.—There are excellent newspapers in Buenos Ayres. Advertising should be entrusted to an advertising agency specializing in Argentina. The American Chamber of Commerce at Buenos Ayres may be consulted.

BRAZIL.—There are excellent modern newspapers in Rio and Sao Paulo. The services of an advertising agency should be secured. The American Chamber of Commerce in Rio should be consulted.

CHILE.—There are modern newspapers in Valparaiso and Santiago. A Chilean advertising agency may be consulted, as well as the Chamber of Commerce in Valparaiso.

PERU.—Lima is the center of publicity for Peru. Circularization and advertising in Peruvian newspapers will be found effective. Should not be attempted without the co-operation of someone on the spot.

For other Latin-American countries it is advised to use American export periodicals, circularization through selected lists, and newspaper advertising only through the medium of an advertising agency in the capital of the country concerned.

Several advertising agencies in America are now equipped to give advice on foreign publicity. They should demonstrate their facilities for efficiently covering publicity in a given foreign markets, before being entrusted with a publicity campaign. The Associated Advertising Clubs of the World, a prominent organization with headquarters in New York, is giving a close study to the problem of foreign trade publicity.

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